

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 11th DAY OF JULY, 2011 AT 6:00 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	James D. Politis	-Chair
	William H. Brown	-Vice Chair
	Mary W. Biggs	-Supervisors
	Gary D. Creed	
	Doug Marrs	
	John A. Muffo	
	Annette S. Perkins (arrived 6:15 p.m.)	
	F. Craig Meadows	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	Brian Hamilton	-Economic Development Director
	Ruth L. Richey	-Public Information Officer
	Dari Jenkins	-Zoning Administrator
	Vickie L. Swinney	-Secretary, Board of Supervisors

CALL TO ORDER

The Chair called the meeting to order.

INTO CLOSED MEETING

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711 (5) Discussion Concerning a Prospective Business or Industry or the Expansion of an Existing Business or Industry Where No Previous Announcement Has Been Made of the Business or Industry's Interest in Locating or Expanding Its Facilities in the Community.

1. Project # 2011-002
2. Project # 2011-022

- (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body

1. Old Blacksburg Middle School Property

- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body

1. Library Board
2. Workforce Investment Board

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Annette S. Perkins
William H. Brown		
Mary W. Biggs		
Doug Marrs		
John A. Muffo		
James D. Politis		

Supervisor Perkins arrived at 6:15 p.m.

OUT OF CLOSED MEETING

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Annette S. Perkins	None
William H. Brown	
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
Gary D. Creed	
James D. Politis	

CERTIFICATION OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

William H. Brown
Mary W. Biggs
Doug Marrs
John A. Muffo
Gary D. Creed
Annette S. Perkins
James D. Politis

NAYS

None

ABSENT DURING VOTE

None

ABSENT DURING MEETING

None

INVOCATION

A moment of silence was led by the Chair.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

DELEGATIONS

Virginia Department of Transportation

David Clarke, VDOT Residency Administrator, updated the Board of Supervisors on road issues/concerns in Montgomery County.

Mr. Clarke reported that VDOT is in the midst of their summer schedule which includes mowing, patch work and summer paving.

He reported on the following:

- Craigs Creek Road (SR 621) – Revenue Sharing project is complete.
- US 460 Business (Merrimac area) – VDOT will be replacing a pipe and will require lane closure. Work will be done at night to minimize disruption to traffic.

Board Members concerns:

- Supervisor Creed asked for an update on Willis Hollow Road and the Allegany Springs Bridge. David Clarke reported that the Salem District Office will be overseeing these projects now due to the restructuring of VDOT. He will request a status update from the Salem District Office.
- Supervisor Brown asked when VDOT will begin the ditch/pipe work on Big Vein Road/McCoy Road intersection. David Clark will request a status update.
- Supervisor Marrs asked when the Yellow Sulphur Road project will begin. He wanted to know if it will be started this summer. David Clarke reported that VDOT is just now in the design phase of the project and does not foresee VDOT starting this project over the summer.

PUBLIC ADDRESS

Arnie Saari expressed concern that if the Board of Supervisors issues new bonds for school construction that the County debt will be too much for the citizens to have to pay. He believes that new facilities are not a necessity in the economic times the nation is facing. Mr. Saari stated that the old Blacksburg High School can be repaired and does not understand why the price was over inflated. He also believes that the County needs a debt ceiling and that the citizens of Montgomery County should have the right to decide if new schools should be constructed through a Bond Referendum.

John Tuttle believes that the County should have safe schools; however, he questions why the construction cost for new schools is higher in Montgomery County than other localities. He stated that the cost of a new high school in Loudoun County, for the same square footage, is \$10 million less than the cost for a new high school in Montgomery County.

Kristi Snyder thanked the Board of Supervisors for moving forward with the PPEA process. Ms. Snyder urged the Board to continue with the capital plan to build the new schools needed in the County.

Sarah Woosley spoke in support of moving forward with the funding plan for school construction. Ms. Woosley stated it would be irresponsible to repair the old Blacksburg High School.

Connie Froggatt, a member of the Blacksburg High School PTO, expressed serious concerns with the proposed plans for the new Blacksburg High School. Ms. Froggatt stated the size of the school auditorium has been reduced, which will not hold the entire school population. A total of 8 classrooms and 4 resource offices have been eliminated from the plan. The cafeteria size has been reduced which will require three lunch periods. Ms. Froggrat stated the project for Blacksburg High School and Auburn High School are separate projects and are not equal. She believes the school projects are driven by money and time, not by educational needs.

Chris Tuck addressed the Board regarding the need for a new high school in Blacksburg. Mr. Tuck pointed out that the Board originally voted to repair the old high school and then voted to construct a new one. He asked the Board to reconsider repairing the BHS in order to avoid a large tax increase. He believes that the BHS can be repaired and be modernized. Mr. Tuck also questioned why the price for a new school in Montgomery County is \$10 million higher than the new school in Loudoun County. And for the new courthouse, he commented that the County could try to find other cuts such as using the old furniture from the Courthouse instead of purchasing new when the new Courthouse is finished.

Leslie Hager-Smith spoke in support of moving forward with the PPEA process for new school construction. She stated there is nothing more important than children's education. Ms. Hager-Smith offered a few suggestions such as exempting the first \$50,000 or \$75,000 of the real estate tax or creating a foundation to receive donations for school capital projects.

Mary Hanson spoke in support of the Blacksburg and Auburn school projects. Ms. Hanson believes there will be less revenue received if a new Blacksburg High School is not built.

Jennifer Mingle agrees that the school capital projects have become restrained by time and money; however, she believes the projects need to move forward. She disagrees with a previous speaker's comments that the Auburn and Blacksburg projects are not equal. Ms. Mingle stated that both projects have received cuts and in reality less money is being spent on the Auburn project. The School Board used the same formula for both school when deciding what to be cut. It is her understanding that the plan is to add additional classrooms when needed.

Cecile Newcomb spoke in support of a new Blacksburg High School and raising taxes for the construction costs. Ms. Newcomb stated that the American economy relies on a well-educated work force. She believes not having a middle or high school in Blacksburg has a negative impact on the quality of education in Blacksburg.

Matt Gabriele encouraged the Board to move forward with the school construction plans. Mr. Gabriele is glad to see that the Board is not putting money towards the repair of the old BHS because it is a money pit with unknown cost. He understands that hard decisions have to be made; however, it is worth spending money on the children.

Bill Murray expressed concerns with the potential tax increase. Mr. Murray understands the need for a new Blacksburg High School but believes a new school for Auburn can wait in order to lessen the tax burden for the citizens of the County. He stated that there needs to be a healthy economy before taxes are increased. Mr. Murray supports a bond referendum.

Tony Anderson expressed concerns with a tax increase. Mr. Anderson commented that there are numerous elderly people living on a fixed income and cannot afford a tax increase. He understands the need for a new high school in Blacksburg but asked if a new high school in Auburn is a need or a want. He suggested that the citizens who are supporting a tax increase donate money for the cause to prevent a tax increase.

There being no further speakers, the public address session was closed.

CONSENT AGENDA

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously, the Consent Agenda dated July 11, 2011 was approved.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Doug Marrs	
John A. Muffo	
Gary D. Creed	
Annette S. Perkins	
William H. Brown	
James D. Politis	

Approval of Minutes

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously, the minutes dated January 24, 2011 and February 7, 2011 were approved.

Appropriations and Transfers

A-FY-12-02 RE-APPROPRIATION OF COUNTY ENCUMBRANCES

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012, for the function and in the amount as follows:

100	Board of Supervisors	\$109,468
110	County Administration	\$6,738
130	Financial and Management Services	\$15,042
140	Information Technology	\$130,661
141	Customer Premises Equipment Grants	\$90,277
152	Assessment	\$4,881
170	Registrar	\$13,745
180	Internal Services	\$67,096
230	J & D Relations Court	\$334
400	General Services	\$218,670
700	Parks and Recreation	\$42,208
710	Library	\$69,330
720	Floyd Library	\$30,200
800	Planning and GIS	\$6,299
810	Economic Development	<u>\$3,223</u>
	Total	\$808,172

The source of funds for the foregoing appropriation is as follows:

Revenue Account

451205 Designated General Fund Balance \$808,172

Said resolution re-appropriates monies supporting the balances of outstanding purchase orders as of June 30, 2011.

**A-FY-12-04
RE-APPROPRIATION OF
COUNTY CIP PROJECTS**

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the County Capital Projects Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012, for the function and in the amount as follows:

110	New Government Center	\$ 636,673
	Building C Renovation	354,613
	Courthouse Renovation	8,251,931
142	Munis Document Management	6,475
320	Jail Renovation	2,453,000
	Public Safety Building	4,274,000
330	Fire and Rescue Reserve	11,322
400	Animal Control	7,187
	CJ&S Property Improvements	11,569
	Elliston Bridge	22,036
	Consolidated Sites	32,689
700	Park Revitalization	25,967
	Frog Pond	9,728

710	Meadowbrook Library	12,590
800	GIS	30,739
	Topo Maps	22,544
810	Economic Development Projects	<u>67,677</u>
	Total	\$16,230,740

The source of funds for the foregoing appropriation is as follows:

Revenue Accounts:

451205	Designated Fund Balance	\$ 16,230,740
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Said resolution re-appropriates remaining account balances of CIP projects.

**A-FY-12-05
RE-APPROPRIATION OF GRANTS**

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012, for the function and in the amount as follows:

143	Customer Premises Equipment Grants	\$66,005
201	Domestic Violence Victim Fund	22,977
321	DARE Program	1,884
	Project Lifesaver	8,905
710	Library Gates Grant	16,374
721	Floyd Library Gates Grant	16,539
911	Mental Health - NRVCS	<u>13,420</u>
	Total	\$146,104

The source of funds for the foregoing appropriation is as follows:

Revenue Account:

21432-424401	VITA State Grant	\$66,005
02201-424401	Domestic Violence Victim Fund	\$22,977
29114-434401	Mental Health Service Grant	\$13,420
02-451205	Designated Fund Balance	<u>\$43,702</u>
	Total	\$146,104

Said resolution re-appropriates available account balances of grants as of June 30, 2011.

A-FY-12-06
RE-APPROPRIATION OF SCHOOL CIP PROJECTS

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, That the School Capital Projects Fund was granted an appropriation in addition to the annual appropriation for fiscal year ending June 30, 2012 for the function and in the amount as follow:

600	Capital Projects Fund - Schools	\$23,633,309
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The source of funds for the foregoing appropriation is as follows:

Revenue Account

451204	Capital Projects Fund Balance	\$23,633,309
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Said resolution re-appropriates remaining account balances of School CIP projects. These balances exclude encumbrances which will be re-appropriated through a second resolution.

A-FY-12-07
PLANNING AND GIS DEPARTMENT
RE-APPROPRIATION OF
CONSERVATION EASEMENT FUNDING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012 for the function and in the amount as follows:

800	Planning and GIS	\$128,538
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The source of the funds for the foregoing appropriation is as follows:

Revenue Account

451205	Designated Fund Balances	\$128,538
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Said resolution re-appropriates remaining account balances for conservation easement funding as of June 30, 2011.

A-FY-12-08
RE-APPROPRIATION OF GYPSY MOTH
AND VDOT REVENUE SHARING FUNDS

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012, for the function and in the amount as follows:

930	Special Projects	\$378,575
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
451205 Fund Balance	\$378,575

Said resolution re-appropriates remaining account balances of the Gypsy Moth Program and VDOT revenue sharing as of June 30, 2011.

A-FY-12-09
RE-APPROPRIATION OF RSVP AND
LIBRARY DONATIONS, FUNDRAISING
AND SCHOLARSHIP FUNDS

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012, for the function and in the amount as follows:

520	RSVP	\$ 4,986
700	Parks and Recreation	\$ 8,516
710	Library	\$41,658
720	Floyd Library	<u>\$35,952</u>
	Total	\$91,112

The source of funds for the foregoing appropriation is as follows:

<u>Revenue Account:</u>		
02-451205	Designated Fund Balance	\$91,112

Said resolution re-appropriates remaining account balances of donations, fund raising, and scholarships in previous fiscal years.

A-FY-12-10
RE-APPROPRIATION OF
FEDERAL FORFEITED ASSET SHARING PROGRAM FUNDS
COMMONWEALTH'S ATTORNEY AND SHERIFF

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012, for the function and in the amount as follows:

200	Commonwealth Attorney	\$ 5,662
321	Sheriff	<u>\$65,218</u>
	Total	\$70,880

The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
451205 Fund Balance	\$70,880

Said resolution re-appropriates remaining account balances of Federal Asset Forfeiture funds as of June 30, 2011.

A-FY-12-11
RE-APPROPRIATION
SHERIFF'S DEPARTMENT
DEN HILL RANGE

:

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012, for the function and in the amount as follows:

324	Sheriff - County	\$48,818
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
451205 Designated Fund Balance	\$48,818

Said resolution re-appropriates remaining account balances of the Den Hill Range project as of June 30, 2011.

A-FY-12-12
PARKS AND RECREATION
CARRYOVER ELLET VALLEY LOOP TRAIL FUNDS

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012, for the function and in the amount as follows:

700	Parks and Recreation	\$3,800
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The source of the funds for the foregoing appropriation is as follows:

Revenue Account

451205	Designated Fund Balance	\$3,800
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Said resolution re-appropriates remaining balance as of June 30, 2011 for costs associated with the Ellet Valley Loop Trail.

A-FY-12-13
PARKS AND RECREATION
CARRYOVER OF YEAR END BALANCE
FOR THE HUCKLEBERRY TRAIL PAVING PROJECT

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012, for the function and in the amount as follows:

451209	Transfer to County Capital Projects	\$30,000
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The source of funds for the foregoing appropriation is as follows:

451203	Undesignated Fund Balance	\$30,000
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BE IT FURTHER RESOLVED, The County Capital Projects fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012 for the function and in the amount as follows:

127003PR	Parks Revitalization Project	\$30,000
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The source of funds for the foregoing appropriation is as follows:

451100	Transfer from General Fund	\$30,000
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Said resolution appropriates funds remaining at June 30, 2011 to complete the Huckleberry Trail paving project.

A-FY-12-14
NEW RIVER VALLEY EMERGENCY
COMMUNICATIONS REGIONAL AUTHORITY

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012, for the function and in the amount as follows:

110	NRV Emergency Communications	
	Regional Authority	\$124,786

The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
419108	Recovered Costs	\$ 124,786

Said resolution appropriates funds necessary to cover the costs associated with the NRV Emergency Communications Regional Authority.

A-FY-12-15
FLOYD LIBRARY
BUDGET APPROPRIATION FOR FY 12

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2012 for the function and in the amount as follows:

720	Floyd Library	\$200,225
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The sources of funds for the foregoing appropriation are as follows:

<u>Revenue Account</u>		
710 416156	Floyd Contribution	\$140,921
720 415211	Sale of Copies	\$ 5,000
720 416157	Town of Floyd Contribution	\$ 2,000
720 416151	Fines and Fees	\$ 18,900
720 424409	State Library Grant	<u>\$ 33,404</u>
	Total	\$200,225

Said resolution provides the appropriation for the operation of the Floyd Library with Floyd residents.

A-FY-12-16
RSVP
GRANT REDUCTION

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund appropriation was reduced for the fiscal year ending June 30, 2012, for the function and in the amount as follows:

520	RSVP	(\$12,136)
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The source for the revenue reduction is as follows:

<u>Revenue Accounts:</u>		
433107	RSVP-Grant	(\$12,136)

Said resolution reduces funds in the RSVP grant due to federal reduction for FY 12.

A-FY-12-17
BRAIN INJURY SERVICES OF SOUTHWEST VIRGINIA
TRANSFER FROM GENERAL CONTINGENCIES

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

<u>FROM:</u>		
950	General Contingencies	(\$800)
<u>TO:</u>		
910	Other Agencies – Brain Injury Services	\$800

Said resolution transfers appropriated funds from General Contingencies to Brain Injury Services of Southwest Virginia.

A-FY-12-18
SHERIFF
TRANSFER OF FUNDS

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

FROM:

310 Sheriff – Compensation Board (\$14,194)

TO:

320 Sheriff – County \$14,194

Said resolution transfers funds from the Sheriff's Compensation Board Budget to the Sheriff's County Budget.

**R-FY-12-01
REVENUE SHARING PROJECT
TRANSFER OF FUNDS
CRAIG'S CREEK ROAD (SR 621)**

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby requests the Virginia Department of Transportation to transfer \$28,163 from Revenue Sharing Project 768-060-R15 UPC 87227 (SR 768 Quartz Lane) to Project 621-060-R27 UPC 91587 (SR 621 Craig's Creek Road) for the purpose of completing the project.

**R-FY-12-02
RESOLUTION ACKNOWLEDGING RECEIPT
OF THE NEW RIVER VALLEY COMMUNITY SERVICES
FY 2012 PERFORMANCE CONTRACT**

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia acknowledges receipt of the New River Valley Community Services Performance Contract for Fiscal Year 2012 between New River Valley Community Services and the State Department of Behavioral Health and Development Services.

BE IT FURTHER RESOLVED, The Montgomery County Board of Supervisors makes no comment regarding the performance contract for the New River Valley Community Services for Fiscal Year 2012.

OLD BUSINESS

**R-FY-12-03
RESOLUTION APPROVING REAL ESTATE SALES AGREEMENT
WITH MOUNTAIN VALLEY CHARITABLE FOUNDATION
FOR SALE OF OLD ELLISTON FIRE STATION PROPERTY**

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby approves the Real Estate Sales Agreement by and between the County of Montgomery, Virginia and Mountain Valley Charitable Foundation, Inc. for the sale of the old Elliston Fire Station Property.

BE IT FURTHER RESOLVED, By the Board of Supervisors that the Board hereby authorizes James Politis, Chair to sign the Real Estate Sales Agreement and any required documents on behalf of the County that are required to convey the property to Mountain Valley Charitable Foundation.

The vote on the foregoing resolution was as follows:

AYE

Doug Marrs

John A. Muffo

Annette S. Perkins

William H. Brown

Mary W. Biggs

Gary D. Creed

James D. Politis

NAY

None

R-FY-12-04
A RESOLUTION APPROVING AN OPTION AGREEMENT WITH
THE COMMONWEALTH OF VIRGINIA
FOR THE PURCHASE OF COUNTY PROPERTY
FOR I-81 TRUCK LANE WIDENING PROJECT

On a motion by Doug Marrs, seconded by Gary D. Creed and carried unanimously,

WHEREAS, The Commonwealth of Virginia Department of Transportation (“the Commonwealth”) has requested to purchase from the County 0.339 acres and a 0.636 acre drainage easement (“the Property”) from a portion of the 116 acres the County owns off Den Hill Road, identified as Tax Map 81-A-14, for VDOT’s I-81 Truck Lane Widening project; and

WHEREAS, The Board of Supervisors is amenable to selling the Property to the Commonwealth for the I-81 Truck Lane Widening Project; and

WHEREAS, The Board of Supervisors held a public hearing pursuant to Section 15.2-1800 of the 1950 Code of Virginia, at its regular Board meeting on Monday, June 27, 2011, to hear citizen comments on the Board’s intention to sell the Property to the Commonwealth; and

WHEREAS, The Commonwealth has requested the County to enter into an Option Agreement whereby the Commonwealth has a one-year period to execute its option to purchase the Property from the County.

NOW THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby approves the Option Agreement by and between the Board of Supervisors of the County of Montgomery, Virginia and the Commonwealth of Virginia whereby the Board agrees to convey 0.339 acres and a 0.636 acre drainage easement to the Commonwealth pursuant to the terms and conditions of the Option Agreement.

BE IT FURTHER RESOLVED, By the Board of Supervisors that the Board hereby authorizes James Politis, Chair, to sign the Option Agreement and all other documentation required to convey the said Property to the Commonwealth on behalf of the County of Montgomery.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Annette S. Perkins	
William H. Brown	
Mary W. Biggs	
Doug Marrs	
Gary D. Creed	
James D. Politis	

ORD- FY-12-01
ORDINANCE AMENDING THE ZONING CLASSIFICATION
OF APPROXIMATELY 0.105 ACRES FROM AGRICULTURAL (A-1)
TO GENERAL BUSINESS (GB) IN THE SHAWSVILLE MAGISTERIAL DISTRICT
LOCATED AT 1870 BIG SPRING DRIVE
IDENTIFIED AS TAX PARCEL NO. 59A-A-31, ACCOUNT NUMBER 070714

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed rezoning is in compliance with the Comprehensive Plan and meets the requirement for public necessity, convenience, general welfare and good zoning practice and therefore approves the request to rezone approximately 0.105 acres from Agriculture (A1) to General Business (GB), to allow retail sales.

The subject parcel is located at 1870 Big Spring Drive and is identified as Tax Parcel No. 59A-A-31 (Acct # 070714) in the Shawsville Magisterial District (District C).

The property currently lies in an area designated as Village Expansion in the 2025 Comprehensive Plan and further described as Mixed Use within the Elliston-Lafayette Village Plan.

This action was commenced upon the application of Montgomery County.

This ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

AYE

Annette S. Perkins
William H. Brown
Mary W. Biggs
Doug Marrs
John A. Muffo
Gary D. Creed
James D. Politis

NAY

None

ORD-FY-12-02

**AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF
APPROXIMATELY 0.12 ACRES FROM AGRICULTURAL (A-1) TO GENERAL
BUSINESS (GB) AND 0.494 ACRES FROM AGRICULTURAL (A-1) TO
RESIDENTIAL (R3) IN THE SHAWSVILLE MAGISTERIAL DISTRICT
LOCATED AT 1860 BIG SPRING DRIVE
IDENTIFIED AS TAX PARCEL NO (S) 59A-A-42, ACCOUNT NUMBER 008389
KIM AND KENNETH TAYLOR**

On a motion by Gary D. Creed, seconded by Mary W. Biggs and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed rezoning, is in compliance with the Comprehensive Plan and meets the requirement for public necessity, convenience, general welfare and good zoning practice and therefore approves the request to rezone approximately 0.12 acres from Agriculture (A1) to General Business (GB), to allow retail sales and approximately 0.494 acres from Agriculture (A1) to Residential (R-3), to allow a single or two-family dwelling.

The subject parcel is located at 1860 Big Spring Drive and is identified as Tax Parcel No. 59A-A-4-2* (Acct # 008389) in the Shawsville Magisterial District (District C).

The property currently lies in an area designated as Village Expansion in the 2025 Comprehensive Plan and further described as Mixed Use within the Elliston-Lafayette Village Plan.

This action was commenced upon the application of Kim Taylor and Kenneth Ford (Agent: Mountain Valley Charitable Foundation).

This ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
Annette S. Perkins	
Gary D. Creed	
James D. Politis	

R-FY-12-05
SPECIAL USE PERMIT
RANDALL W. SLUSSER AND VIRGINIA D. SLUSSER
FOR THE PURPOSE OF ALLOWING ONE ADDITIONAL LOT ASSIGNMENT
THAN THE TOTAL PERMITTED BY THE SLIDING SCALE FOR A FAMILY
SUBDIVISION IN THE MOUNT TABOR MAGISTERIAL DISTRICT
(DISTRICT A) PARCEL ID 016766, TAX MAP NUMBER 19-3-12
RANDALL AND VIRGINIA SLUSSER
DENIED

On a motion for denial by John A. Muffo, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the request by Randall W. Slusser and Virginia D. Slusser for a Special Use Permit on 5.023 acres in an Agriculture (A-1) zoning district to allow for one additional lot assignment than the total permitted by the sliding scale for the purpose of allowing a family subdivision to be located at 4840 Natures Way Road (SR 734) and identified as Tax Parcel No. 19-3-12 (Acct # 016766) is hereby **denied**.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Doug Marrs	
John A. Muffo	
Gary D. Creed	
William H. Brown	
Annette S. Perkins	
James D. Politis	

Supervisor Biggs noted that at the Planning Commission's June 8, 2011 meeting, the Planning Commission recommended denial of this request. The subject property is under a private deed restriction which states that the land shall not be re-subdivided. The Planning Commission believed that the County should not be involved in the enforcement of private subdivision covenants and restrictions.

ORD-FY-12-03

AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING, SECTIONS 10-25, 10-26, 10-27, 10-33, 10-35 AND 10-36 OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA BY ADDING LAND LOCATED IN THE URBAN DEVELOPMENT AREAS TO THE LIST OF QUALIFYING LANDS IN THE RESIDENTIAL R-2, R-3, RM-1 DISTRICTS, IN THE PLANNED INDUSTRIAL (PIN), PLANNED UNIT DEVELOPMENT (PUD) AND THE PLANNED MOBILE HOME RESIDENTIAL PARK (PMR) DISTRICTS AND SECTION 10-61 OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA, BY ADDING AND /OR MODIFYING THE DEFINITIONS OF THE FOLLOWING TERMS: ALLEY, FINANCIAL SERVICES, GREEN, NATURAL AREA/PRESERVE, PARK AND SQUARE / PLAZA

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, of the Code of the County of Montgomery, Virginia shall be amended and reordained by amending Sections 10-25, 10-26, 10-27, 10-33, 10-35 and 10-36 as follows:

Sec. 10-25. R-2 Residential District.

(2) *Qualifying lands.* Lands qualifying for inclusion in the R-2 zoning district shall be R-2 residential on the date of adoption of this chapter and other lands within areas mapped as residential transition, village, village expansion, urban development area, or urban expansion in the comprehensive plan. The minimum area required to create a district shall be three (3) acres of total contiguous land.

Sec. 10-26. R-3 Residential District.

(2) *Qualifying lands.* Lands qualifying for inclusion in the R-3 zoning district shall be R-3 Residential on the date of adoption of this chapter and other lands within areas mapped as residential transition, village, village expansion, urban development area, or urban expansion in the comprehensive plan. The minimum area required to create a district shall be two (2) acres of total contiguous land.

Sec. 10-27. RM-1 Multiple-Family Residential District.

(2) *Qualifying lands.* Lands qualifying for inclusion in the RM-1 zoning district shall be RM-1 Residential on the date of adoption of this chapter and other lands within areas mapped as urban expansion, village, ~~or~~ village expansion, or urban development area in the comprehensive plan. The minimum area required to create a district is one (1) acre of total contiguous land.

Sec. 10-33. PIN Planned Industrial.

(2) *Qualifying lands.* Lands qualifying for inclusion in the PIN zoning district shall be PIN on the date of passage of this chapter, or other lands within areas mapped as urban expansion, urban development area, or village expansion in the comprehensive plan which are served by or planned for connections to public sewer and water. The minimum area required to create a district shall be five (5) acres of total contiguous land.

Sec. 10-35. PUD-RES Planned Unit Development-Residential district.

(2) *Qualifying lands.* Lands qualifying for inclusion in the district shall be PUD-RES on the date of passage of this chapter, or other lands within areas mapped as village, village expansion, **urban development area**, or urban expansion in the comprehensive plan which are served by or planned for connections to public sewer and water. The minimum area required to create a district shall be ten (10) net acres of total contiguous land in the urban expansion area and five (5) net acres in the village or village expansion area.

Sec. 10-36. PMR Planned Mobile Home Residential Park.

(2) *Qualifying lands.* Land qualifying for inclusion in the district shall be PMR on the date of passage of this chapter, or other lands mapped as residential transition, village expansion, **urban development area**, or urban expansion in the comprehensive plan which are served by or planned for connection to public water and sewer service. New PMRs shall be serviced by connections to public sewer and water. Expanded PMRs shall have: (1) water and sewer as for new PMR, or (2) have water and sewer service meeting current VDH and DEQ standards encompassing both established and expansion portions of the PMR. The minimum area required to create a district shall be six (6) acres of total contiguous land.

PROPOSED ORDINANCE AMENDMENTS: DEFINITIONS

Sec. 10-61. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section. Any word, term or phrase used in this ordinance not defined below shall have the meaning ascribed to the word in the most recent edition of Webster's Unabridged Dictionary, unless in the opinion of the zoning administrator, established customs or practices of the County of Montgomery, Virginia, justify a different or additional meaning. Further, for the purpose of this chapter, certain words and terms are to be interpreted as follows:

- (1) Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; words in the singular number include the plural; and words in the plural include the singular, unless the obvious construction of the wording indicates otherwise.
- (2) The word "shall" is mandatory.
- (3) Unless otherwise specified, all distances shall be measured horizontally and at right angles or radially to the line in relation to which the distance is specified.
- (4) Unless otherwise specified, the term "day" shall mean working day (Monday through Friday).
- (5) The word "lot" includes the word plot; the word "used" includes the terms designed, intended, arranged or to be used.
- (6) The terms "land use" and "use of land" shall include the use of buildings and structures.

Abutting: Contiguous, adjoining; having property or district lines in common; or being separated by a right-of-way, alley or easement.

Access: A means of approaching or entering a property; includes ingress and egress.

Accessory apartment: See "Apartment, accessory."

Accessory building: See "Building, accessory."

Accessory dwelling: See "Dwelling, accessory."

Accessory structure: See "Structure, accessory."

Accessory use: See "Use, accessory."

Acreage: A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

Activity: The natural or normal function of an act, that which is performed or the proper or characteristic action of anything.

Addition: Any construction which increases the bulk or gross floor area of a building or structure.

Adjacent: Lying near, but not necessarily contiguous.

Administrator: The county's zoning administrator, or authorized agent thereof, who is charged with the responsibility of interpreting and administering this zoning ordinance.

Agriculture: The use of land for purposes of raising plants and animals useful to humans, including field crops, pasture, fruits, vegetables, floral and greenhouse products, sod, viticulture, silviculture, aquaculture, apiculture, poultry and other fowl, horses and other livestock, including owning, breeding, leasing, training and recreational usage of livestock, and the necessary accessory uses for packing, storing and treating produce, equipment and materials, including primary processing and storage of agricultural goods produced on the premises for distribution to final processing plants and markets; provided, however, that the necessary accessory uses shall be secondary to that of the main agricultural activities. The term does not include processing plants, livestock markets and slaughter houses.

Agriculture, intensive: The raising, breeding and keeping of animals in concentrated, confined conditions, which may include such operations as swine, veal, sheep; houses and pens for poultry or other fowl; feed lots for beef, dairy cattle, swine, sheep and other animals; livestock markets and pet farms.

Agriculture, intensive, facility (also livestock facility): Any enclosed field, range, pen or building where three hundred (300) or more total animal units are confined or housed for more than forty-five (45) total days in any part of any twelve-month period, and crops, vegetation, forage growth or post-harvest residues are not sustained over any significant portion of such field, range, pen, or building; any poultry operation containing ten (10) or more animal units in a single enclosed field, range, pen or building, or twenty (20) or more animal units on a single tract, shall constitute intensive agriculture.

Equivalent of 300 animal units:

- 300 slaughter or feeder cattle
- 750 swine
- 150 horses
- 3,000 sheep or lambs
- 200 mature dairy cattle
- 16,500 turkeys
- 30,000 laying hens or broilers

Agriculture, small scale: The production of plants and animals useful to humans as defined under general agriculture above, of no greater than three (3) animal units per acre and no more than ten (10) animal units total on the tract.

Alley: A private right-of-way, not less than eighteen (18) feet wide that provides secondary and/or service access for vehicles to the side or rear of abutting properties having principal frontage on another street or on a plaza, square or green.

Alteration: Any change in the total floor area, use, adaptability or external form or appearance of an existing structure, except for superficial, nonstructural changes such as paint color.

Amendment: Any repeal, modification, or addition to a regulation; any new regulation; any change in the number, shape, boundary, or area of a zoning district; or any repeal, change, addition or abolition of any part of the zoning map.

Amusement hall: See "Recreation establishment, indoor."

Animal hospital: A facility for the provision of surgical or other medical treatment to animals. Such animals may be kept in the facility during the recovery period or while under medical treatment only.

Animal unit: The equivalent of one (1) head of beef cattle. For the purposes of this chapter, the following equal one (1) animal unit: one (1) head of beef cattle; one (1) dairy cow; two (2) calves of less than one-year old; one (1) buffalo; one (1) llama; one (1) horse; one (1) mule; five (5) sheep; five (5) goats; two (2) swine; two (2) deer; one hundred (100) chickens; fifty (50) turkeys; three (3) ostriches; or one hundred (100) rabbits.

Apartment, accessory: A second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the principal dwelling, for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation and sleeping. Such a dwelling is an accessory use to the principal dwelling and shall conform with all use, set-back and other requirements of this ordinance.

Apartment house: See "Dwelling, multifamily."

Attic: The part of structure which is immediately below and wholly or partly within the roof framing; where there are dormers greater than fifty (50) percent of the length of the roof, then this area is not an attic.

Automobile graveyard: Any lot or place which is exposed to the weather and upon which more than five (5) inoperative vehicles are placed, located or found. An automobile graveyard is considered to be a junkyard.

Automobile: A car, light truck or van of not more than one and one-half (1 1/2) tons are classified as automobiles for the purposes of this ordinance. Motor vehicles of larger size or weight are classified as trucks for purposes of this ordinance.

Automotive service establishment: See "Repair shop."

Automotive sales establishment: A commercial establishment of which the principal use is sales of automobiles, light trucks and/or vans, with repair and maintenance services as an accessory use. No fuel sales shall be part of such an establishment.

Banner means cloth, paper, balloons or material of any kind intended to attract attention. Governmental flags or symbolic flags of religious, charitable, public or nonprofit organizations shall not be considered to be banners.

Base district: A type of zoning district established in this ordinance that requires a generally uniform group of land uses and lot requirements and does not require a concept development plan in advance of zoning approval, in contrast to the special and overlay districts.

Basement: A story with at least half of its height below grade (below ground level) on all sides. A basement shall not be counted as a story for the purpose of height regulations, but shall be counted as usable floor area in calculating floor area ratios.

Bed and breakfast homestay: An owner-occupied single-family dwelling, or portion thereof, where short-term lodging is provided, with or without meals, for compensation, to transient guests only. Meals may be provided to guests only. Up to five (5) guest rooms may be provided (also see "Bed and breakfast inn" and "Country inn").

Bed and breakfast inn: A single-family dwelling, or portion thereof, where short-term lodging is provided for compensation to transient guests only. The operator may or may not live on the premises. Meals may be provided to guests only. Up to fifteen (15) guest rooms may be provided (also see "Bed and breakfast homestay" and "Country inn").

Berm: A landscaped earthen mound intended to screen, buffer, mitigate noise and generally enhance views of parking areas, storage areas or required yards, particularly from public streets and adjacent properties.

Boarding house: A dwelling, or part thereof, with three (3) or more rooms that are rented individually or collectively by long-term residents (at least month-by-month tenants) as opposed to overnight or weekly guest. A boarding house may make provisions for serving meals. See "Family."

Billboard: See "Sign, general advertising," in Article IV, section 10-45.

Bufferyard (also buffer area): A yard improved with screening and/or landscaping materials required between abutting uses or districts of differing intensities for the purpose of decreasing the adverse impacts of one differing use on another.

Building: Any structure having a roof supported by columns or walls for the housing or enclosure of any person, animal, activity or property of any kind.

Building, accessory: A subordinate building customarily incidental to and located upon the same lot occupied by the main structure or building. Garages or other accessory buildings such as carports, porches and stoops attached to the main building shall be considered part of the main building.

Building Code: The Virginia Uniform Statewide Building Code.

Building, principal: The principal or main structure or one of the principal buildings on a lot or the building or one of the principal buildings containing the principal use on the lot. The terms main and principal have the same meaning in this ordinance when referring to structures, buildings and uses.

Campground: A lot, or tract of land operated either as a commercial or non-commercial enterprise in which seasonal facilities are provided for all or any of the following: camping in tents, picnicking, boating, fishing, swimming, outdoor games and sports, and activities incidental and related to the foregoing, but not including golf, golf driving ranges, miniature golf, mechanical amusement devices or permanent housing facilities for guests. Campground does not mean "recreational vehicle park" nor "mobile home park" as defined herein.

Camp, boarding: As for campground, except that uses and structures shall be permitted for the lodging of guests engaged in outdoor recreation activities. Boarding camp does not mean "mobile home park" as defined herein.

Carnival: A traveling or transportable group or aggregation of rides, shows, games or concessions or any combination thereof.

Cellar: A story having more than one-half (1/2) of its height below grade and which may not be occupied for dwelling purposes.

Cemetery: Property used for the interring of the dead, in which columbariums and mausoleums may be used.

Chipmill: See "Sawmill."

Church: A place of worship, an institution that people regularly attend to participate in or hold religious services, meetings and other related activities. The term "church" shall not carry a secular connotation and shall include any building used for religious services by any denomination.

Circus: A traveling or transportable show or exhibition consisting of performances by persons and/or animals under one tent or similar structure, with or without other sideshows.

Civic club or lodge: A facility used by a nonprofit organization or group of people organized for a common purpose to pursue civic-oriented goals, interests and activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws. These clubs and organizations may engage in activities consistent with their nonprofit status.

Clinic: See "Medical care facility."

College: An institute of higher education authorized or accredited to award advanced degrees, which may include on-site student, faculty and/or employee housing facilities.

Compact development (also cluster development): A residential subdivision or a tract where, instead of subdividing the entire tract into house lots with conventional dimensions, a similar number of housing units may be clustered on smaller lots, thereby increasing green space on other areas of the site.

Commercial-retail establishments: Places of business (1) for the display and sale of merchandise at retail to the public such as foods, drugs, clothing, hardware, household appliances, furniture, optical goods, music and entertainment goods, and (2) for the rendering of personal services to the public such as barber and beauty establishments, optician, seamstress and tailor services.

Commission: The planning commission of the county.

Common open space: See "Green space."

Communications tower: See "Telecommunications tower."

Community center: A place, structure, area or facility used for civic, cultural, educational, recreational and/or social activities which is open to the public and intended to serve the local community.

Comprehensive plan: The current comprehensive plan of the county, as amended, and adopted by the board of supervisors in accord with Code of Virginia, § 15.2-2226.

Concept development plan: A general graphic depiction of the layout and/or design of a land development project, which shall include written and quantitative information as required by the county, also may be referred to as "site development plan," but to be distinguished from a "site plan," as defined herein.

Conference or training center: Facilities for conducting meetings and conferences of business groups, civic groups or other large gatherings for purposes of sharing information. Such centers may have on-site lodging and eating facilities for the participants.

Congregate care facility: A structure other than a single family dwelling where more than eight (8) unrelated persons reside under supervision for special care, treatment, training or similar purposes, on a temporary or permanent basis.

Congregate living facility: See "Senior living facilities."

Conservation easement: An easement granting a right or interest in real property that retains land or water areas predominately in their natural, scenic, open, or wooded condition, preserving such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.

Contiguous: See "Abutting."

Contractor's service establishment: Any establishment from which services are provided for building construction, building repair or building equipment installation or repair, such as, but not limited to flooring, heating and plumbing.

Contractor's storage yard: An area used for the storage of equipment and/or materials used for providing construction-related contracting services, including but not limited to flooring, heating, plumbing, roofing, landscaping and excavation.

Convenience store: Any retail establishment offering for sale a relatively limited selection of prepackaged food products, household items, and other related goods, not including gasoline or fuel sales, characterized by a rapid turnover of customers and high traffic generation. Includes "general store," as defined herein.

Copy service: A retail establishment providing convenient services for printing copies of flyers, brochures and the like, for small scale users (also see "Printing service").

Country club: A land area and buildings containing recreational facilities, club house and normal accessory uses, primarily open to members and their guests for a membership fee, and which may include but are not limited to swimming pools, tennis courts, golf courses, stables and riding facilities, equestrian events but not racetracks; overnight accommodations for members

and guests up to fifteen (15) guest rooms; and dining facilities up to a maximum of sixty (60) seats which may be for use by members, guests and the general public.

Country inn: A business which offers accommodations and dining in a rural area. Overnight lodging of up to thirty (30) rooms is available and a full-service restaurant may provide meals to guests and the general public (also see "Bed and breakfast inn").

Craft industry: The creation of original arts and crafts products such as pottery, baskets, wood sculpture and quilts, using traditional methods and materials.

Crematorium: A building containing a furnace for reducing dead bodies, either animal or human, to ashes by burning.

Dairy: A commercial establishment for the manufacture and sale of dairy products and does not include feed lots or other facilities for keeping livestock.

Day care center (child or adult): A licensed establishment operated as a commercial enterprise or public facility which is operated only during a part of any twenty-four-hour day for the purpose of providing care, protection and supervision for compensation to more than nine (9) children or more than four (4) aged, infirm, or disabled adults who mainly reside elsewhere.

Density, gross: The ratio of the total number of lots or dwellings on a tract to the total number of acres within the tract.

Density, net: The ratio of the total number of lots or dwellings on a tract to the total number of acres of the tract not within the defined 100-year floodplain (also see "Lot, net area").

Development: Any manmade change to improved or unimproved real estate including, but not limited to, construction or alteration of buildings or other structures, the placement of mobile homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations.

District: Zoning districts as referred to in the Code of Virginia, §§ 15.2-2280 and 15.2-2281 et seq.

Disposal facility: See "Landfill."

Domestic animals: See "Pet, household" and "Pet, farm."

Dormitory: A building used as a group living quarters for a student body, fraternal organization or religious order as an accessory use for a college, boarding school, orphanage, convent or similar institution; group kitchen facilities only are permitted.

Duplex: See "Dwelling, two-family."

Dwelling: A building or portion thereof used for residential purposes, including one-family, two-family and multifamily dwellings, and bed and breakfast establishments, but not including hotels, motels, boardinghouses, dormitories, fraternity/sorority houses, tourist cabins, or automobile trailers (also see "Dwelling unit").

Dwelling, accessory: A subordinate dwelling located on the same lot as the principal dwelling, and which may be within the same structure as the principal dwelling, or which may be a detached structure, but which shall not include duplex or two-family dwellings. **See section 10-41(2) for additional information.**

Dwelling, multifamily (multiple-family): A building or portion thereof used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units, including apartment buildings, but not including group, row or town houses (also see "Apartment").

Dwelling, single-family: A structure arranged or designed to be occupied by one (1) family, the structure having only one (1) dwelling unit, with the exclusion of mobile or manufactured homes and trailers, except as otherwise provided in this chapter.

Dwelling, single-family attached: One (1) of two (2) or more residential buildings, each having separate ground floor access, and having a common or party wall separating the dwelling units, such party walls having no openings. For purposes of this definition, living space on the

ground floor may include a garage or porch. Includes duplex, triplex, quadraplex and townhouse units (also see "Townhouse").

Dwelling, single-family detached: A single-family dwelling unit which is entirely surrounded by open space or yards on the same lot.

Dwelling, two-family: A structure arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units. A duplex unit.

Dwelling unit: One (1) or more rooms in a dwelling designed for independent living and sleeping purposes by one (1) family and having at least one (1) separate kitchen. A dwelling unit shall not be occupied by more than four (4) individuals unrelated by blood or marriage except that no more than eight (8) mentally ill, mentally retarded, or developmentally disabled persons, as defined by the Code of Virginia, may occupy a single dwelling unit, together with resident counselors or other staff persons.

Easement: A grant of one (1) or more property rights by the owner to, or for the use by another specified party or parties, such as the public, a corporation, or another person or entity, including easements appurtenant and easements in gross (also see "Conservation easement").

Exploratory activity: Includes, but is not limited to, drilling, the excavation of pits, shafts, adits, or other openings in the ground and the removal of materials therefrom; the conduct of any seismic surveys requiring the drilling of holes and/or detonation of explosives; the conducting of any other surveys or investigations that change the ground surface.

Extractive industry: An enterprise which is involved in the exploration, excavation or extraction of mineral, oil or gas resources for sale, exchange or commercial use.

Family: One (1) or more persons occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boardinghouse, tourist home or hotel. One (1) or more persons related by blood, marriage, adoption or guardianship, including servants, caregivers, and no more than two (2) roomers or boarders; or a group of not more than four (4) unrelated persons; or up to eight (8) mentally or developmentally disabled persons living in a residential group home facility. See "Boarding house" and "Group home."

Farm enterprise: An agricultural or silvicultural based process, activity or business use of a property that is subordinate to and conducted in conjunction with an ongoing bona fide agricultural, horticultural, aquaculture or silvicultural operation. Activities of a farm enterprise may include, but are not limited to, the following uses such as secondary processing and/or retail sale of agricultural, horticultural or silvicultural products, farm tours, petting, feeding and viewing of farm animals, hayrides, annual festivals, crop mazes, animal walks and horse and pony rides. This definition would not include land application of sludge, sawmills, meat processing plants, slaughterhouses, wood processing and similar uses that are regulated by Special Use Permit in the Agricultural (A-1) zoning district, nor does it include any uses that are specified and limited to zoning districts other than Agriculture (A-1).

Fence, boundary: Any man-made barrier, other than a building or a berm, of any material or combination of materials erected for the purpose of physically enclosing an area of land.

Fence, privacy: Any fence erected for the purpose of providing visual, audio, or other screening of buildings or areas of land.

Festival: Any fair, celebration, jamboree or similar temporary public gathering, held mainly outdoors, with or without admission fees, where patrons watch or participate in entertainment, including but not limited to music shows, concerts and revivals.

Financial Institutions—~~Financial services:~~ **Businesses** activities in which customers frequent the site for purposes of buying and selling securities, obtaining loans, depositing and withdrawing money, and the like.

Flea market: A place where any person or group of vendors, whether professional or nonprofessional, offer for sale, trade or barter any goods regardless of whether they are new, used antique, or homemade; and regardless of whether they are offered for sale in open air buildings or temporary structures. The term "flea market" does not include the offering for sale of goods by the owner thereof at owner's residence at what are commonly referred to as "garage sales" or "yard sales," provided that such sales do not occur more frequently than once every sixty (60) days. The term "flea market" also shall not include any business or occupation, which has a valid business license or special use permit which pertains to the sale, trade or barter of goods.

Flex industrial: Light industrial activities that occur in buildings of no more than two (2) stories in height, with one (1) or more loading docks, and not more than half of the gross floor area used for offices.

Flood: A general and temporary inundation of normally dry land areas.

Floodplain: The land shown as being within the 100-year flood boundary on the applicable current flood insurance rate map issued under the National Flood Insurance Program. Such boundaries may be refined by site specific floodplain surveys conducted by a licensed engineer if such surveys are approved by the zoning administrator. The 100-year flood is a flood that, on average is likely to occur once every 100 years, i.e. that has a one percent chance of occurring each year, although may occur in any year.

Floodway: The designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this chapter, the floodway shall be capable of accommodating a flood of the 100-year magnitude.

Floor area, gross: The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. The term "floor area" shall include basements, elevator shafts and stairwells at each story, floor space for mechanical equipment with headroom of seven (7) feet or more, attic space, interior balconies and mezzanines. The term gross floor area shall not include cellars or outside balconies which do not exceed a projection of six (6) feet beyond the exterior walls of the building. Parking structures and rooftop mechanical structures are excluded from gross floor area.

The gross floor area of structures devoted to bulk storage of materials including, but not limited to, grain elevators and petroleum storage tanks, shall be computed by counting each ten (10) feet of height or fraction thereof as being equal to one (1) floor.

Floor area, net: The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls and from the centerline of walls separating two (2) or more buildings. The term "net floor area" shall include outdoor display areas for sale, rental and display of vehicles, equipment and other products, but shall exclude areas designed for permanent uses such as toilets, utility closets, enclosed parking areas, mechanical equipment rooms, public and fire corridors, stairwells, elevators, escalators, and areas under a sloping ceiling where headroom in at least half of such area is less than seven (7) feet.

Floor area ratio (FAR): A number or percentage, derived by dividing the gross floor area of the buildings on any lot by the total lot area less the area within the 100-year floodplain (net lot area). The floor area ratio multiplied by the net lot area produces the maximum amount of gross floor area that may be constructed on a lot.

Fraternity house: See "Dormitory."

Frontage: The minimum width of a lot measured from one (1) side lot line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line (front yard depth) as defined and required in this chapter.

Funeral home: An establishment used primarily for human funeral services, which may or may not include facilities on the premises for embalming, performance of autopsies or other surgical procedures, and storage of funeral-related supplies and vehicles, but does not include facilities for cremation.

Game preserve: An area of land upon which a fee is charged for public or private hunting or fishing and/or upon which game or fish are grown or stocked specifically for hunting or fishing thereon, or for transport to other sites for similar purposes.

Garage, private: Accessory building designed or used for the storage of not more than three (3) automobiles sport utility vehicles or similar small trucks per dwelling unit served, such vehicles being owned or leased and used by the occupants of the principal building to which it is accessory, with no facilities for mechanical service or repair of a commercial or public nature. On a lot occupied by a multi-unit dwelling, the private garage may be designed and used for the storage of one and one-half (1.5) times as many automobiles as there are dwelling units. Maximum height and area shall be eighteen (18) feet and twelve hundred (1,200) square feet respectively unless authorized by special use permit.

Garage, public: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor-driven vehicles as a business enterprise (also refer to "Repair shop" and "Parking deck").

Garbage dump: See "Junkyard."

Garden shop or garden center: An establishment for the retail sale of nursery stock, garden equipment, tools, seeds and supplies.

Gas or natural gas: All natural gas, whether hydrocarbon or nonhydrocarbon or any combination or mixture thereof, but does not refer to gasoline or diesel fuel for motor vehicles.

Gasoline station: See "Service station."

General store: A single store of not more than two thousand (2,000) square feet of gross floor area, which offers for sale, primarily, most of the following articles: Bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, papers and magazines and general hardware articles. Does not include sales of gasoline or other fuels.

Golf course: Any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses such as golf driving ranges, and buildings thereto.

Golf driving range: A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

Green (public or private): Green means an open space available for unstructured recreation, its landscaping consisting of grassy areas and trees. A Green should be designed for passive and unstructured active recreation. Improvements to the green may consist of paths, benches, landscaping, and other improvements.

Green space: Land which remains undeveloped and is maintained for the benefit and enjoyment of residents of adjacent dwellings, or the public, in a residential development, in accord with the requirements of this chapter. Green space preserved to meet the purposes and requirements of this chapter may be held in either public or private ownership, unless otherwise specifically stated herein. Green space may or may not include the right of public access.

Gross leasable area: That area contained within a business or commercial enterprise located in a shopping center or commercial building, and includes the entire area leased or rented or intended to be leased or rented including storage, retail area, shipping and offices and all other areas for the sole use of that business or commercial enterprise.

Gross floor area: The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls, including basements, elevator shafts and stairwells at each story, but not parking structures.

Group home: A dwelling shared by no more than eight (8) psychologically disordered, mentally or developmentally disabled persons, including resident staff, who live together as a single housekeeping unit, and shall for the purposes of this ordinance be considered a residential single family. Psychological disorders and developmentally challenged shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia, § 54.1-3401. See "Family" and "Boarding house."

Height, building: The vertical distance measured from the adjoining grade at the front entrance of the building to the top of the building. The top of the building shall be defined as the highest point for flat roofs, and the average height between eaves and the ridge for gable, hip, gambrel and other pitched roofs. For corner lots, the building height shall be the average of the front height defined above and the building side height adjacent to the street. The building side height shall be defined as the vertical distance measured from the lowest adjoining grade on the side adjacent to the street to the highest point of the building.

Height, structure: The distance between the highest point of any structure, and the lowest grade adjacent to the structure.

Home business: A business activity carried on by the resident(s) of a dwelling and up to two (2) nonresident employees, as a clearly incidental and subordinate use of the residential dwelling, in which the on-site business activity is conducted wholly within the dwelling or accessory structure, with no exterior impacts such as traffic, parking demand, noise, vibration, glare, odors or electrical interference, and the residential appearance of the dwelling and the character of the neighborhood is maintained.

Home occupation: A business activity carried on solely by the resident(s) of a dwelling, as a clearly incidental and subordinate use of the residential dwelling or accessory structure, in which the on-site business activity generates no exterior impacts such as traffic, parking demand, noise, vibration, glare, odors or electrical interference, and the residential appearance of the dwelling and the character of the neighborhood is maintained.

Homeless shelter: A facility providing temporary housing primarily to indigent, needy, homeless or transient persons and which may also provide ancillary services such as counseling and/or vocational training.

Homeowner's association: A formally constituted, private, nonprofit association or corporation of property owners for the purpose of owning, operating and maintaining various common properties and/or facilities.

Hospital: An institution providing general health services primarily for human in-patient medical or surgical care for the sick or injured, including related accessory facilities such as laboratories, out-patient departments, training facilities and staff offices that are an integral and essential part of the institution's principal function.

Hotel: A building designed or occupied as the more or less temporary abiding place for individuals who are, for compensation, lodged with or without meals, and in which provisions may or may not be made for cooking in individual rooms or suites. A hotel may include restaurants, taverns or club rooms, public banquet halls, ballrooms and meeting rooms. A hotel contains a central entrance lobby and does not provide a motor vehicle parking space adjacent to each individual room as does a motel.

Hunting club: See "Game preserve."

Identification sign: A sign which indicates the identity of a piece of property such as a public or private institution, a private estate or home and other similar places. The sign must be located on the parcel of land it identifies.

Inoperative motor vehicle: Any motor vehicle which is not in operating condition or which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the

vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. This definition shall not apply to vehicles exempted under the provisions of Code of Virginia, §§ 46.2-650 through 46.2-653, 46.2-663 through 46.2-680, 46.2-723 and 46.2-750. This definition shall also not apply to vehicles in a public landfill.

Junkyard: A lot on which junk material and/or inoperable vehicles are collected, stored, salvaged, exchanged or sold. The term shall include garbage dumps, nonsanitary landfills and automobile grave yards. The term shall not include facilities for the disposal or storage of fuel, chemicals or other hazardous wastes (also see "Automobile grave yard").

Kennel, commercial: An establishment for keeping, training, breeding, handling, selling, treating or boarding dogs, cats, or other household pets as a business. Does not include establishments in which the sole function is grooming.

Laboratory: A facility for scientific laboratory research in technology-intensive fields or a facility for scientific laboratory analysis of natural resources, medical resources, and manufactured materials.

Land area, gross: The total area of a tract of land as shown on a certified survey or on a concept development plan.

Land area, net: The total area of a tract of land as shown on a certified survey or on a concept development plan, less land in the 100-year floodplain and land with slopes in excess of twenty-five (25) percent.

Land bay: A distinct area of land clearly depicted on an approved concept development plan for the purpose of generally defining the boundaries of different types and densities of land uses. Boundaries of land bays may be centerlines of existing or planned streets, centerlines of streams or drainage ways, or other lines of convenience, accurate to within three (3) percent of the actual acreage of the land bay.

Landfill, sanitary also *landfill:* A landfill accepting nonhazardous debris, trash or waste, which is covered with clean fill after each day's operation, and which meets all standards of, and is licensed by, the Virginia State Department of Health (also see "Junkyard").

Length/width ratio: The ratio of the length of a lot to its width, calculated by dividing the lot depth as defined herein, by the lot width as defined herein.

Livestock: Domesticated animals commonly raised for the purpose of providing meat, wool, skin or fur for human use or consumption, such as cattle, bison, goats, swine, llamas and sheep (also see "Pet, farm").

Livestock market: A commercial establishment wherein livestock is collected for sale and auctioned off.

Loading space: A motor vehicle space on a lot situated for allowing the loading and unloading of trucks and other motor vehicles, with minimum dimensions of fourteen (14) feet in width, forty (40) feet in length and a vertical clearance of fifteen (15) feet.

Lot: A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width and lot areas as are required by this chapter, either shown on a plat or record or else considered as a unit of property and described by metes and bounds. The word "lot" includes the words "plot" and "parcel."

Lot, corner: A lot abutting on two (2) or more streets at their intersection, where the interior angle of the intersection does not exceed one hundred thirty-five (135) degrees. The front shall be deemed to be the shortest of the sides fronting on streets. For purposes of regulation, all corner lots shall be designated at the time of subdivision as fronting on a single street, and all yard and building requirements shall be based upon that designation.

Lot, coverage: The percentage of a lot area occupied by the ground floor area of principal and accessory buildings on such lot.

Lot, depth of: The average horizontal distance between the front and rear lot lines.

Lot, interior: Any lot other than a corner lot.

Lot, net area: That portion of a lot which has no land within the defined 100-year floodplain.

Lot, parent: See "Parent parcel."

Lot, through: An interior lot in which the front and rear yards each abut a street.

Lot, width: The distance between side lot lines, measured in one of the following ways, whichever is most applicable:

- (1) In the case of regular-shaped lots, the width shall be measured along the front lot line;
- (2) In the case of irregular-shaped lots, the width shall be the average distance between the side lot lines, with the average distance to be measured at ten-foot intervals beginning at the front lot line;
- (3) In the case of a pipestem lot, the pipestem portion shall not be considered as part of the lot in determining the lot's width;
- (4) In the case of a lot which has a curvilinear front lot line, the width shall be measured from a line tangent to the required minimum front yard line at its midpoint in the lot.

Lot of record: A lot which has been recorded in the clerk's office of the circuit court.

Manufacture and/or manufacturing: The processing or converting of raw, unfinished materials or products, or either of them, into articles or substances of a different character or for use for a different purpose.

Manufactured home, Class A: A multisectional manufactured home constructed after July 1, 1976, that meets or exceeds the Manufactured Home Construction and Safety Standards, promulgated by the U.S. Department of Housing and Urban Development. Manufactured homes are also commonly referred to as "mobile homes" and differ from "modular homes" as defined herein, in that they do not necessarily comply with BOCA or Virginia Uniform Statewide Building Code standards.

Manufactured home, Class B: A traditional single section manufactured home constructed after July 1, 1976, that meets or exceeds the Manufactured Home Construction and Safety Standards, promulgated by the U.S. Department of Housing and Urban Development. Manufactured homes are also commonly referred to as "mobile homes" and differ from "modular homes" as defined herein, in that they do not necessarily comply with BOCA or Virginia Uniform Statewide Building Code standards.

Manufactured home, Class C: A manufactured home constructed before July 1, 1976, and consequently does not meet the criteria of a Class A or Class B manufactured home. Manufactured homes are also commonly referred to as "mobile homes" and differ from "modular homes" as defined herein, in that they do not necessarily comply with BOCA or Virginia Uniform Statewide Building Code standards.

Marquee means a permanent structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

Medical care facility: A building or portion of a building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities; includes physician's and other medical offices, and may include emergency medical care facilities.

Minimum zoning district area: The minimum contiguous land area required to establish a given zoning district as defined herein. Such land area may be in separate parcels and/or separate ownership, and may be rezoned to the district at different times or through separate application and approval processes.

Mineral: Coal, clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substance of commercial value excavated in solid form from natural deposits on or in the earth and those minerals which occur naturally in liquid or gaseous form.

Mobile home: See "Manufactured home."

Mobile home, double-wide: See "Manufactured home, double-wide."

Editor's note: There is no definition for "manufactured home, double-wide."

Mobile home park: Any lot or tract of land designed to accommodate three (3) or more mobile homes (trailers).

Modular home: A residential dwelling unit for which the walls, floor and roof structure are built in a manufacturing plant and transported to the site for final assembly on a permanent foundation, and which meets the BOCA and Virginia Uniform Statewide Building Code standards.

Monument sign: A freestanding sign attached to a continuous structural base, which base is not less than half the width of the message portion of the sign and is permanently affixed to the ground. Monument signs do not include freestanding signs supported by poles.

Motel: A building, or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for motor vehicle travelers and having a parking space adjacent to each sleeping room. Includes motor lodge, tourist court, tourist cabin or motor court.

Motor vehicle fuel: Gasoline or diesel fuel.

Moving (animated signs) means signs which involve the use of motion, rotation, or the appearance of motion.

~~*Natural area:* An area retained in a largely natural state for the purpose of protecting natural resources such as air quality, water quality, wildlife and vegetation, and for providing opportunities for passive recreational activities such as hiking, camping and fishing, but not hunting (also see "Game preserve").~~

***Natural Area/Preserve:* Preserve means open space that preserves or protects endangered species, a critical environmental feature, or, other natural feature. Access to a Preserve may be controlled to limit impacts on the environment. Development of the Preserve is generally limited to trails, educational signs, and similar improvements.**

Night club: A restaurant, coffee house or similar establishment where a dance floor or entertainment is provided.

Nonconforming activity: The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this chapter for the district in which it is located, either on April 15, 1969, or as a result of subsequent amendments to this chapter.

Nonconforming lot: An otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located either on April 15, 1969, or as a result of subsequent amendments to this chapter.

Nonconforming structure: An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage or other area regulations of this chapter, or is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located, either on April 15, 1969, or as a result of subsequent amendments to this chapter.

Nursing home, convalescent home, rest home: An establishment used as a dwelling place by the aged, infirm, chronically ill or incurably afflicted persons, in which not less than three (3) persons live, or are kept, or are provided for on the premises for compensation, excluding clinics, hospitals and similar institutions devoted to the diagnosis, treatment or care of the sick or injured (also see "Senior living facilities").

Office: The facility in which the administrative activities, record-keeping, clerical work and other similar functions of a business, professional service, industry, or government are conducted, and in the case of professions such as dentists, lawyers or engineers, the facility where such professional services are rendered.

Office, professional: See "Office."

Off-street parking area: The space provided for vehicular parking outside the dedicated street right-of-way, and which has a distinct and separate access or driveway to the public street.

Oil: Natural crude or refined oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at a well in liquid form.

One hundred-year flood or 100-year flood: See "Floodplain."

Open space: See "Green space."

Open space easement: See "Conservation easement."

Outpatient mental health and substance abuse center: Establishments with medical staff providing outpatient services related to the diagnosis and treatment of mental health disorders, alcohol, and other substance abuse. These establishments may provide counseling and/or refer patients to more extensive treatment programs, if necessary. Included in this use type are outpatient alcohol treatment centers, outpatient detoxification centers, outpatient drug and substance abuse centers, and outpatient mental health centers.

Overlay district: A type of zoning district established in this chapter that may be mapped for a particular land area and functions as an additional set of zoning requirements in addition to the zoning requirements of the underlying base district that applies to the tract.

Parent parcel: Any lot of record existing on December 13, 1999, which has subsequently been subdivided into one (1) or more additional lots of record.

Parent tract: See "Parent parcel."

~~*Park:* Any public or private open land area available for recreational, educational, cultural or aesthetic use, of an active or passive nature (also see "Natural area"; also see "Playground").~~

***Park:* Park means an open space, available for recreation, its landscape consisting of paved paths and trails, open lawn, trees, open shelters, or recreational facilities. Facilities may range from simple picnic tables, benches, or a playground in a small park, to a recreation center, swimming pool, or sport field in a larger park. Other facilities may include playgrounds, shelters, sport courts, drinking fountains, parking lots, or restrooms. Park grounds are usually grassy and maintained on a regular basis for recreational activity, but may include some natural, or formally landscaped areas (also see "Playground").**

Park and ride lot: A public or private parking lot located, designed and used solely by commuters to park their automobiles, light trucks or light vans while they travel to and from their place of work using buses, car pools or other means. Such lot may be lighted for security purposes.

Parking lot: An off-street, ground level area, usually surfaced and improved, for temporary parking of motor vehicles.

Parking deck or garage: An off-grade structure used solely for the parking of motor vehicles (other than a carport or garage in a residential or agricultural district), but does not include repair, storage, sales or maintenance of vehicles.

Pet, farm: Large domestic animals kept in small numbers in rural areas and used for recreational and sporting purposes such as horses, ponies, swine, goats, mules and donkeys.

Pet, household: Small, domestic animals that are customarily kept in the house or residential yard for the company or enjoyment of the owner, such as but not limited to dogs, cats,

rabbits, birds, rodents, fish and other such animals that pose no threat, harm or disturbance to neighboring residents or properties.

Place of worship: See "Church."

Plant types: The following standards apply to the requirements of section 10-43(3)(c):

(1) *Canopy tree:* A deciduous tree, usually single-trunked, with a definitely formed crown of foliage, which attains a mature height of at least thirty (30) feet.

(2) *Understory tree:* A deciduous or evergreen tree which attains a mature height of no greater than thirty (30) feet. Understory trees often times prefer shade and grow naturally under a canopy of larger trees.

(3) *Evergreen tree:* A nondeciduous tree used for the purposes of screening, weather barrier, or accent planting.

(4) *Shrub:* An evergreen multi-trunked woody plant that usually attains a mature height of no greater than ten (10) feet.

Playground: Any public or private outdoor recreational area containing slides, swings or other recreational equipment.

Poultry: Domesticated fowl commonly raised for human consumption of eggs or meat, including chickens, turkeys, ducks, emus, and the like.

Printing service: A printing plant which produces large runs of printed materials, including books, reports and the like, mainly for businesses, organizations and large scale users (also see "Copy service").

Private club: See "Civic club."

Professional office: See "Office, professional."

Public use, public facility: Any use or facility for exclusively public purposes, without reference to the ownership of the building or structure or the realty upon which it is situated, by any department or branch of the federal, Commonwealth of Virginia, or Montgomery County governments.

Public open land: Land given to the county for parks, playgrounds or undeveloped open space with the intention of making it available for public use.

Public utility, other: A business or service and the facilities and appurtenances thereto, which is engaged in regularly supplying the public with electricity, gas, storm sewer, telephone or cable communications, and other similar public commodities or services. Does not include public water or sewer services or facilities, or telecommunications towers.

Public utility, water or sewer (public water or sewer system): A water or sewer system owned and operated by a municipality or county, or owned and operated by a private individual or a corporation approved by the board of supervisors and properly licensed by the Commonwealth of Virginia and subject to special regulations as set forth in this chapter. Does not include private septic systems and wells serving individual lots.

Public utility plant, other: The central facility for the storage, generation, processing of a public utility commodity, service or product such as electricity, gas, storm sewer, telephone or cable communications, but not including treatment or storage of water or sewerage.

Public utility plant, water or sewer: The central facility for treatment and purification of water or wastewater, as part of a public water or sewer system.

Public utility lines, other (distribution and collection facilities): The lines, pipes, pumps and similar facilities, used for transmitting, collecting or distributing the service or commodity to customers. Does not include water or sewer systems.

Public utility lines, water or sewer (distribution and collection facilities): The lines, pipes, pumps, tanks and other appurtenant parts of the distribution/collection facilities of a public water or sewer system.

Public utility substation: An appurtenant structure for collecting, processing or distributing a public utility commodity, including electric substations but not including any part of a water or sewer system.

Public water or sewer system: See "Public utility, water or sewer."

Recreation club: A sports facility principally for the use of members and guests, may include indoor or outdoor facilities, and may be subject to the Virginia Health Spa Act; such facilities may include, but are not limited to, squash, racquetball, tennis, health spa or club, weight lifting, exercise and aerobics and may include locker rooms, sauna, and pro shop.

Recreation establishment: A commercial sports or amusement facility open to the general public for a fee, including but not limited to:

Indoor: Any facility containing such indoor amusement facilities such as billiard tables, pinball machines, bowling, video games, roller rinks, ice rink, swimming pools, bingo parlors, hard or soft courts, and the like, but not including amusement rides or regular live entertainment. Fewer than four (4) video games or pinball machines shall be deemed an accessory use to a retail commercial establishment or restaurant.

Outdoor: Any facility containing such outdoor amusement facilities such as golf driving range, miniature golf, batting and pitching cages, hard or soft courts, go-carts, pony rides, swimming pools, water slides, ice rink, and the like, but not including amusement rides or regular live entertainment.

Recreational vehicle: A unit primarily designed as temporary living quarters for leisure, recreation, camping or travel use which either has its own motive power or is mounted on or drawn by another vehicle. A recreational vehicle placed on a site for more than one hundred eighty (180) days shall be considered a manufactured home for purposes of this chapter.

Recreational vehicle park: A plot of land upon which two (2) or more recreational vehicles are located, established or maintained, temporarily or otherwise, as temporary living quarters for recreation, leisure, camping or travel purposes (also see "Campground").

Recycling facilities: This broad category of facilities includes the following types:

Recycling center: An enclosed building in which used material such as newspapers, glassware and metal cans is separated and processed prior to shipment to another facility where the materials will be used to manufacture new products. Such a facility is not a junkyard.

Recycling collection point (transfer station): An incidental use that serves as a neighborhood drop-off point for temporary storage of recyclable materials such as newspapers, glassware and metal cans, including the temporary storage of domestic waste materials. No processing of such items occurs at such facility.

Recycling plant: A facility that is not a junkyard and in which recyclable materials such as paper products, glass, metal cans and other products are recycled, reprocessed and treated to return such products to a condition in which they may again be used for production and/or sale.

Repair shop: A building or portion thereof, other than a private garage, designed or used for servicing and repairing automobiles, light trucks and lawn equipment, as a business enterprise, and which may include auto body repair (also refer to "Garage, public").

Required open space: Any space required in any front, side or rear yard (also see "Green space").

Restaurant: A structure, or any part thereof, in which food or beverages are prepared and dispensed for consumption at the time of sale. May include one (1) or more of the following:

Restaurant, full-service: A restaurant with table service (order placement and delivery on-site) provided to patrons, also including cafeterias; carry-out service, if any, shall be a limited portion of the facility and activity.

Restaurant, limited-service: A restaurant without table service provided to patrons; walk-up counter and carryout trade is a primary portion of the facility; includes fast-food, food delivery, carryout, public snack bars and delicatessens, but not specialty food stores.

Restaurant, drive-in: A restaurant where the customers are either served in their vehicles or at a drive through or walk up window or service unit.

Retail floor space: That part of a commercial or retail structure wherein one (1) or more articles of merchandise or commerce are sold at retail, excluding that used exclusively for storage, shipping or offices for employees of the business, and other non-sales areas.

Retail sales and service: A business establishment that sells consumer merchandise or services to the general resident population and/or to tourists, including household goods, clothing, hair care, and other such items.

Road, arterial: A publicly owned and maintained road, designed to carry high volumes of motor vehicles at high speeds, usually requiring four (4) lanes for through traffic and generally planned for restricted or controlled access.

Road, collector: A publicly owned and maintained road generally serving an intra-county and in some cases, an inter-county function. Collector roads carry traffic from local streets to arterial roads. Collector roads may be four (4) lanes but are often two (2) lanes.

Road, local access: A public or privately owned and maintained road with a limited function for through traffic, predominantly providing access to individual lots, and in some cases linking neighborhoods, designed for moderate to low traffic volumes and speeds.

Roof line means the lowest portion of a roof for any building with a pitched roof and the highest point of building with a flat roof.

Rural resort: A private establishment consisting of a detached structure or structure located in a rural setting in which lodging of greater than thirty (30) rooms is available to transient guests for compensation as the principal use, and which may include conference and meeting facilities, restaurant and/or banquet facilities and/or recreational amenities of a rural nature.

Sanitary landfill: See "Landfill, sanitary."

Sawmill: A sawmill permanently located for the processing of timber from the property on which it is located, from adjoining property or from other properties removed from the sawmill.

Sawmill, temporary: A portable sawmill located on a private property for the processing of timber cut only from that property or from property immediately contiguous or adjacent thereto.

School: A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high or middle schools, and high schools, either public or private (also see "College").

School of business or trade: A facility that provides training for employment in business skills such as clerical, data processing and the like, or in trades such as construction skills, heavy equipment operation and the like.

School of special instruction: A facility for the private instruction of skills or activities not directly related to academic pursuits or employment, which may include, but not be limited to, dance studio, music studio, gymnastics, craft and/or art studios, exercise studio (not having locker or shower facilities and not required to comply with the Virginia Health Spa Act).

Self-service storage facility: See "Warehouse, mini."

Semi-detached dwelling: A dwelling unit attached to another dwelling unit with only part or common wall.

Senior living facilities: This broad category of housing accommodation includes the following types of facilities:

Senior housing facility: A residential facility for independent living, containing dwellings where the occupancy is restricted to persons fifty-five (55) years of age or older or couples where either the husband or wife is fifty-five (55) years of age or older. This does not include a development that contains convalescent or nursing facilities.

Square/Plaza: Square/Plaza means open space usually at the intersection of important streets, set aside for civic purposes and commercial activity, including parking, its landscape consisting of durable pavement and formal tree plantings. A Square/Plaza is usually bordered by civic or private buildings. Plazas may range from very active places with adjacent complimentary uses such as restaurants and cafes, to quiet areas with only seating, formal landscape plantings, and amenities such as fountains or public art.

Congregate living facility: A residential facility for semi-dependent living, containing two (2) or more dwelling units for four (4) or more persons fifty-five (55) years of age or older or couples where either the husband or wife is fifty-five (55) years of age or older, within which are provided living and sleeping facilities, as well as various other services such as meal preparation, laundry services and the like.

Life care facility: A facility which may include a full range of living arrangements, for elderly and/or disabled persons, progressing from independent living in single-family units to congregate apartment living where semi-dependent residents share various common facilities and services, to a nursing home facility for dependent residents providing a full range of support services and nursing care (also see "Nursing home").

Service station: Buildings and premises, including but not more than three (3) interior service stalls, wherein the primary use is the supply and dispensation at retail of motor vehicle fuel, oil, batteries, tires and motor vehicle accessories, and where, in addition, the minor maintenance services may be rendered and sales made, such as lubrication, brake repair, muffler replacement, washing and polishing and the like; and sales of cold drinks, packaged foods and similar convenience items, but only when such sales are conducted inside the principal building as accessory and incidental to the primary use. Permissible uses do not include major mechanical and body work, painting, welding or other work involving noise, glare, fumes, smoke or other impacts to an extent greater than normally found at service stations.

Setback: The distance by which any building, structure or other defined object shall be separated from the front lot line or other lot line as may be specified (also refer to "Yard").

Shooting range: An establishment at which patrons may use firearms for target practice at fixed targets in a protected area, either indoors or outdoors.

Shopping center: A group of commercial enterprises offering a range of commercial goods and services and which is characterized by one (1) or more of the following:

- (1) It is designed as a single commercial group, whether on the same parcel or not;
- (2) It is under one (1) common ownership or management, or has one (1) common arrangement for the maintenance of the grounds;
- (3) It is connected by party walls, partitions, covered canopies or other structural members to form one (1) continuous structure;
- (4) It shares a common parking area; or
- (5) It otherwise presents the appearance of one (1) continuous commercial area.

Shrubs, medium: Woody plants usually three (3) to six (6) feet high and face (or have branches to the ground) down themselves. Large shrubs may or may not be known for flower, fruit production or branching pattern but usually have good, full foliage either all season long or at least in the deciduous growing season.

Shrubs, large: Woody plants usually six (6) to fifteen (15) feet high and face (or have branches to the ground) down themselves. Large shrubs may or may not be known for flower,

fruit production or branching pattern but usually have good, full foliage either all season long or at least in the deciduous growing season.

Sign means any device or display of any letters, words, numerals, figures, emblems, pictures, trademark, symbol, flag, banner, pennant or any parts or combinations thereof, by any means whereby such are made visible for the purpose of making anything known, whether such display be made on, attached to or as a part of a structure, surface or any natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made. A display of less than one (1) square foot in area bearing only property numbers, postal box numbers, names of occupants of premises or other identification of premises not having commercial purpose is excluded from this definition. Detailed definitions of sign types and related terms are contained in detailed sign regulations herein below.

Sign background means the surface on which a sign is affixed, not meant to include the base, poles, pedestals, walls, or fences under three feet six inches (3' 6") in height; which background is determined by computing the entire area within a single geometric form that encloses the background.

Sign, billboard, means any sign where the product, business or thing so advertised or displayed is not located on the premises of the site or property on which said sign is erected or displayed.

Sign, business, means a sign which directs attention to a product, commodity or service available on the premises.

Sign, construction, means a temporary sign identifying those engaged in construction of any building site.

Sign, directional, means a sign indicating the direction to which attention is called giving the name and approximate location only of the business or service.

Sign, directory, means a sign on which the names and locations of occupants or the uses of a building or group of buildings is given.

Sign, farm identification, means a sign which identifies or otherwise describes the name, ownership and/or type of agricultural operation of the lot or parcel of land upon which it is situated.

Sign, freestanding, means any nonmovable sign supported by a fence, retaining wall, or by upright structural members or braces on or in the ground and not attached to nor printed on a building.

Sign, general advertising, means a sign which directs attention to a product, commodity or service not necessarily available on the premises and which is licensed by the state.

Sign, ground mounted, means any sign which is supported by structures or supports in or upon the ground and independent of any support from any building, not a pole sign.

Sign, home occupation, means a sign not exceeding four (4) square feet in area directing attention to a product, commodity or service available on the premises but which product, commodity or service is clearly a secondary use of the dwelling.

Sign, identification, means a sign which identifies or otherwise describes the name, ownership or location of a business, tenant or service.

Sign lighting:

1. *Direct*. A direct lighted sign shall mean a sign illuminated internally or on the surface of the sign itself.
2. *Indirect*. An indirect lighted sign shall mean a sign that is illuminated from a source separate from the sign.

Sign, marquee, means a sign attached to and made a part of a marquee or any similar projections from a building, with changeable, fixed or both types of lettering in use.

Sign, monument, means a type of ground mounted sign which is built on grade and which the sign and structure are an integral part of one another.

Sign, multifamily housing, means a sign which identifies the name of a multifamily housing development. The message content shall be limited to the name of the multifamily housing development.

Sign, nonshielded illumination of, means a light source of which the bulb or light source is visible to a motorist, pedestrian or first floor window on from off of the property on which the light is located.

Sign, on-premises, means any sign which directs attention to a business, commodity, activity, service or product conducted, sold, or offered upon the premises where the sign is located.

Sign, planned mobile home park, means a sign which identifies the name of a planned mobile home park. The message content shall be limited to the name of the planned mobile home park.

Sign, pole or pole-mounted, means a sign that is mounted on one (1) or more freestanding poles or similar columnar supports.

Sign, portable, means any sign not permanently affixed to the ground nor to a structure, including any sign attached to or displayed on a vehicle that is used for the expressed purpose of advertising a business establishment, product, service, or entertainment. Any such vehicle shall, without limitation, be considered to be used for the express purpose of advertising if it fails to display current license plates, inspection sticker, municipal decal or if evidence of paid-to-date local taxes can not be made available. Portable signs may be used only as temporary signs, as defined in this section

Sign, projecting, means any sign, other than a wall, awning or marquee sign, which is affixed to a building.

Sign, roof, means any sign erected or constructed, in whole or part, above a roof line.

Sign structure means the supports, uprights, bracing and framework of any structure be it single-faced, double-faced, V-type or otherwise, exhibiting a sign. Sign structures shall be of sound construction and shall be maintained in a reasonably good state of repair.

Sign, residential, means a sign which identifies the name of a residential project. The message content shall be limited to the name of the subdivision.

Sign, temporary, means any sign not permanently attached to a structure nor permanently mounted in the ground, which can be transported to other locations. Such signs may include, but are not limited to, paper or poster signs, portable signs or other moveable signs, which may announce or advertise seasonal or other brief activity such as weekly specials, special services offered for a limited time by a business establishment, summer camps, fairs, auctions, sale of property or other similar temporary or nonrecurring offers or notices. A temporary sign shall not remain on the property for more than ninety (90) days in any one calendar year, with the exception of signs advertising the sale of the property on which the sign is placed.

Sign, wall, means any sign attached to a wall or painted on or against a surface of a structure that is designed and used for human occupancy, which sign displays only one (1) advertising surface and which extends not more than eighteen (18) inches from the wall.

Sign, window, means any sign attached to or applied directly onto the surface of a window or any sign visible from a public right-of-way through a window.

Sinkhole: An area of surface collapse resulting from an erosion of underlying bedrock by groundwater.

Site plan: A detailed, engineered drawing of the full proposed development of a site, including location, design and dimensions of grading, buildings, parking, streets, sidewalks, utilities, plantings, fences, etc.

Slaughterhouse: A place where livestock is slaughtered and may be cut, packaged and/or processed.

Solid waste collection point: A facility for the collection and temporary storage of residential trash or garbage for immediate transfer to a landfill or recycling facility.

Sorority house: See "Dormitory."

Special district: A type of zoning district established in this ordinance that generally provides for a broader mix of land uses than permitted in the base districts and for which an approved concept development plan in advance of zoning approval is required.

Specialty shop: A business of a local nature selling specialty items including, but not limited to, items such as crafts, sewing supplies, antiques, and souvenirs.

Stable, commercial: A structure and/or use of land where horses or ponies are kept, maintained and/or boarded for a fee, or in connection with which saddle horse or ponies are rented to the general public, made available to members of a private club, or boarded for the convenience of their absentee owners. Exercise rings and show rings shall be considered accessory uses to a stable.

Stone engraving and sales: An establishment used for the engraving, polishing and sales of pre-cut tombstones and other stone monuments.

Storage yard: A yard area in which materials, equipment and/or vehicles used for construction, excavating or building activities are stored, kept and/or maintained. Storage yards may be partially covered, enclosed or screened.

Story: That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it, or the space between the floor and the ceiling next above it.

Story, half: A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use.

Street, private: Streets or roads that are privately owned and maintained for providing direct access to individual lots, including streets owned and/or maintained by a Homeowner's Association or other private entity.

Street, public: Streets or roads that meet the Virginia Department of Transportation standards for acceptance into the state system, and bonded as provided for in the county subdivision ordinance; also includes all other streets or roads owned and maintained by a local, state or federal government agency.

Street line: The dividing line between a street or road right-of-way and the contiguous property (also lot line; property line).

Structure: An assemblage of materials constructed or built for use, occupancy or ornamentation and installed on or above the surface of the land or water, including buildings, towers, tents, platforms, signs, bridges, railways, and the like, but not including paved surfaces such as roads, driveways and sidewalks, nor landscaping features such as berms, fences and retaining walls.

Structure, accessory: A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to the principal structure; is subordinate in area, extent and purpose to the principal structure; is customarily provided or required for the principal structure.

Structure, principal: The principal or main structure or one (1) of the principal structures on a lot or the structure or one (1) of the principal structures containing the principal use on the lot. The terms main and principal have the same meaning in this chapter when referring to structures, buildings and uses.

Telecommunications facilities: Any land area, structure, and/or equipment affixed to land or structures (singly or in any combination), used in telephone, telegraph, radio, television, or other operations involving the transmitting, receiving or exchange of information over wires, cables, fibers, light beams or by electromagnetic energy through the atmosphere.

Telecommunications tower, attached: A telecommunications antenna which is placed on an existing building or other non-telecommunications structure, and increasing the height of the existing structure by not more than ten (10) feet.

Telecommunications tower, freestanding: An independent structure of skeletal framework or a pole, guyed or self supporting, used to support antennas. Guy wire, framework and other stabilizing devices are considered part of the structure of the tower.

Townhouse: A single-family dwelling forming one (1) of a group or series of three (3) or more attached single-family dwellings separated from one (1) another by party walls without doors, windows, or other provisions for human passage or visibility through such walls from basement to roof and having roofs which may extend from one (1) such dwelling unit to another (also see "Single-family attached").

Tract: One (1) or more contiguous lots.

Traffic impact statement: A statement that assesses the impact of a proposed development on the transportation system and recommends improvements to lessen or negate those impacts. The traffic impact statement shall (1) identify any traffic issues associated with access from the site to the existing transportation network; (2) outline solutions to potential problems; (3) address the sufficiency of the future transportation networks and (4) present improvements to be incorporated into the proposed development. The traffic impact statement shall comply with the requirements contained in the Virginia Department of Transportation Traffic Impact Analysis Regulations, Chapter 155, 24 VAC 30-155-60. If a traffic impact statement is required, data collection shall be by the developer or owner and the developer or owner shall prepare the traffic impact statement.

Transfer station: See "Recycling collection point" under "Recycling facilities."

Transition house: An establishment providing accommodations, rehabilitation, counseling, and supervision of up to six (6) persons suffering from alcohol or drug addiction or similar disorders, and/or to persons re-entering society after being released from a correctional facility or other institution, enabling them to live independent.

Travelway: That portion of a street or other roadway which is designed and constructed for motor vehicles to travel and/or park, whether a paved or unpaved surface.

Truck terminal: Any structure or land devoted principally to the servicing, fueling, repair, storage, sales and/or leasing of two (2) or more large trucks or similar heavy equipment such as tractor-trailers or tandem or tri-axle dump trucks or grading equipment; or any structure or land devoted principally to any activity involving a substantial and routine traffic consisting of trucks or passenger buses, such as a gasoline or fuel oil distributor, a freight or shipping business, a bus depot, a moving business, or similar activities, but not including other principal uses specified in a zoning district where a truck terminal is permitted.

Use, principal: The primary use, activity and purpose for which a lot or main building thereon is designed, arranged or intended and for which it is or may be used, occupied or maintained. The terms main and principal have the same meaning in this chapter when referring to structures, buildings and uses. Only one (1) principal use is permitted per lot **with the exception of mixed uses in Traditional Neighborhood Design Districts.**

Use, accessory: A use that is clearly incidental and subordinate to and customarily found in connection with the principal use; and serves a principal structure or use; and is located on the same lot as the principal use; except as may be provided for under the provisions for off-street parking.

VDOT: Virginia Department of Transportation

Veterinary hospital: See "Animal hospital."

Warehouse, mini: A structure consisting of individual, enclosed, small, self-contained units that are leased or owned for the storage of business or household goods or contractor's supplies.

Warehouse, storage: A structure or part of a structure for storing goods, wares, and merchandise whether for the owner or others for hire.

Watershed area: See "Natural area."

Well: Any shaft or hole sunk, drilled, bored or dug into the earth or into the underground strata for the extraction, injection or placement of any gaseous or liquid substance, or any shaft or hole sunk or used in conjunction with such extraction, injection or placement. The term "well" does not include any shaft or hole sunk, drilled, bored or dug into the earth for the purpose of core drilling, pumping or extracting therefrom potable, fresh or usable water for household, domestic, industrial, agricultural or public use.

Wholesale sales or wholesale business: A business establishment that sells merchandise in bulk to large scale buyers, usually other businesses, for the purpose of later retail distribution to the resident population and/or to tourists.

Width: See "Lot width."

Yard: An open space in a lot other than a court unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter:

Front: An open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line and extending across the full width of the lot.

Rear: An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.

Side: An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot and extending from the front yard line to the rear yard line.

Zoning administrator: See "Administrator."

Zoning permit: An application form, used administratively, to designate the nature of the proposed use of a building or land and to provide additional pertinent information concerned with such development.

ORD-FY-12-04

AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA, BY AMENDING SECTION 10-45 SIGN REGULATIONS BY ADDING REGULATIONS REGARDING LED/CHANGEABLE MESSAGE SIGNS; BY AMENDING THE SIGN MATRIX TO ALLOW FOR DIRECTORY SIGNAGE AND REGULATIONS FOR THE NEW TND-INFILL AND TND PUD DISTRICTS; BY CREATING ALLOWANCES FOR SHOPPING CENTERS FOR RETAIL SPACE WITH WALLS UP TO ONE THOUSAND (1,000) SQUARE FEET; BY ADDING REGULATIONS REGARDING OFF-PREMISE SIGNS FOR SEMI-PUBLIC USES, COMMUNITY SIGNS, SUBDIVISION SIGNS AND SIGNS FOR CHURCH, CHAPEL, SYNAGOGUE, TEMPLE OR OTHER PLACES OF WORSHIP AND BY INCLUDING PROVISIONS ALLOWING FOR A SPECIAL USE PERMIT TO BE ISSUED BY THE BZA TO ALLOW FOR AN INCREASE IN SIGN AREA IN CERTAIN CIRCUMSTANCES

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, of the Code of the County of Montgomery, Virginia shall be amended and reordained by amending Section 10-45 as follows:

Sec. 10-45. Sign regulations.

(a) *General provisions.*

- (1) *Purpose.* The purpose of these regulations is to regulate all signs placed for exterior observance, thus ensuring the conservation of property values, the consideration of the character of the various communities, the protection of safety and welfare of pedestrians and wheeled traffic, the provision of convenience to citizens and the encouragement of economic development. A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein is intended to be an integral but accessory and subordinate part of the principal use of land or building.

These regulations are intended to promote signs that are appropriate to the activity to which they pertain and are constructed and maintained in a structurally sound and attractive condition.

The regulations of this chapter are not intended to interfere with, abrogate or annul any law of the state relating to outdoor advertising nor to prevent application of the county's higher/stricter regulations.

- (2) *Permits required.* A sign permit is required prior to the display and erection of any sign unless it is excepted in subsection (3).
- (3) *Permits not required.*
 - a. Signs of a constituted governmental body, including traffic signs and signals, directional signs and regulatory signs.
 - b. National or state flags or flags of other political units or of any civic, charitable, educational, philanthropic or similar group or movement; provided, that no freestanding pole shall be erected in the public right-of-way nor be within five (5) feet of a service drive, travel lane or adjoining street.
 - c. Legal devices or warnings at railroad crossings.
 - d. Freestanding signs or signs attached to a structure or tree, no more than one and one-half (1 1/2) square feet in area, to warn the public against hunting, fishing, trespassing, dangerous animals, swimming, the existence or danger or such, when placed on the periphery of the property or at a location where the warning is necessary.
 - e. Directional signs.
 - f. The changing of messages on marquees and the repair of an existing permitted sign.
 - g. Temporary signs as defined and as specified herein may be used in every zoning district unless otherwise prohibited:
 1. One (1) contractor's sign per job site, no more than twelve (12) square feet in area, located on the property on which the work is being done.

2. One (1) real estate sign per lot, advertising the sale, rental or lease of the premises, or part of the premises on which the sign is displayed, no more than twelve (12) square feet in area.
 3. Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties; provided, that all such signs shall be removed no more than ten (10) days after their purpose has been accomplished.
 4. Political campaign signs, no more than twelve (12) square feet in area, on any privately owned lot or parcel.
 5. Temporary signs, no more than twelve (12) square feet, announcing a campaign drive or an event of a civic, philanthropic, educational or religious organization; provided, that the sponsoring organization shall ensure proper and prompt removal of such sign within five (5) days after drive or event.
 6. Temporary signs, no more than twelve (12) square feet in area, featuring such announcements as "Grand Opening," "Under New Management" or "Going Out of Business"; provided, they are displayed for no longer than thirty (30) days and removed on the thirty-first day.
 7. Window signs advertising weekly specials or special services offered for a limited time by a business establishment and then promptly removed.
- (4) *Prohibited signs.* All signs not specifically permitted are prohibited, including, but not limited to, the following:
- a. Moving signs of which all or any parts move by any means, including, but not limited to, ~~flashing or~~ rotating signs, propellers, discs and such, but excluding pennants and signs indicating time and temperature. This prohibition shall not apply to the hands of a clock, a weathervane or flags as provided in subsection (3) or to LED/Changeable Message signs as provided in subsection (11).
 - b. Any sign that uses the word "stop" or "danger" or otherwise presents or implies the need or requirement to stop or cautions of the existence of danger or which is a copy of, imitation of or which for any reason is likely to be confused with any sign displayed or authorized by a public authority.
 - c. Any nonshielded illumination of a sign within two hundred (200) feet of an A-1, C-1, R or PD-RES district.
 - d. Illuminated tubing or strings of lights solely for the purpose of illumination, except when displayed as decorations during the months of November through January. This includes any lighting arrangement which outlines any portion of a building or structure by exposed tubing or strings of light.
 - e. Any sign that violates any provision of the Montgomery County Code, Buildings and Structures or the Virginia Uniform Statewide Building Code.
 - f. Any sign that is attached to a tree, except official notices or announcements as provided in subsection (3).
 - g. Any sign that is attached to a utility pole, rock, curbstone, sidewalk, lamppost, hydrant, bridge, highway marker or other signs, except official notices or announcements as provided in subsection (3).

- h. Any sign that projects beyond a lot line.
- i. Any sign not meeting sign setback regulations or within any public right-of-way.
- j. Any sign that overhangs and has a minimum clearance of less than ten (10) feet above a walkway or fifteen (15) feet above a driveway, alley or travel lane.
- k. Any sign located in the vision triangle formed by any two (2) intersecting streets, or of a commercial entrance and a public street as regulated by section 10-41(11) provisions.
- l. Roof signs.
- m. Any sign erected to a height higher than the maximum building height allowed in the respective zoning district.
- n. Any sign which projects more than four (4) feet from the building to which it is attached, or extends above the roof line.

(5) *Measurement of sign area, allowable sign area.*

- a. Measurements of sign area: The area of a sign shall be that contained within the outside measurement of the perimeter of the display area of the sign, the total area of which is in the smallest square or squares, rectangle or rectangles, triangle or triangles which will contain the entire sign including lighting but excluding supports or sign background whether lighted or not. The area of a sign with two (2) sign faces shall be computed according to the following:
 - 1. If the sign faces are separated by an interior angle of forty-five (45) degrees or greater, all faces shall be included in computing the area of the sign.
 - 2. If the sign faces are separated by an interior angle that is less than forty-five (45) degrees, the area of one (1) face shall be used when the two (2) faces are equal in area. The area of the larger face shall be used when the two (2) faces are unequal in area.
 - 3. If the sign faces are parallel to one another, the area of one (1) face shall be used when the interior distance or space between the two (2) faces is eighteen (18) inches or less. The area of all faces shall be used when the interior distance or space between the two (2) faces is greater than eighteen (18) inches.
- b. Measurement of allowable sign area: Supports, uprights or structures on which any sign is supported shall not be included in determining the sign area unless such supports, uprights or structure are designed in such a way as to form an integral background of the display; except, however, when a sign is placed on a fence, wall, planter, or other similar structure that is designed to serve a separate purpose other than to support the sign, the entire area of such structure shall not be computed. In such cases, the sign area shall be computed in accordance with the preceding provisions. In instances where there are multiple tenants or users on a property or in a building, allowable sign area for all parties shall not exceed the maximum sign area computed as if there were a single tenant or user.

(6) *Nonconforming signs.*

- a. No nonconforming sign shall be enlarged nor be worded so as to advertise or identify any use other than that in effect at the time it became a nonconforming sign.

- b. Signs lawfully existing on the effective date of this chapter or prior ordinances, which do not conform to the provisions of this chapter, and signs which are accessory to a nonconforming use shall be deemed to be nonconforming signs and may remain except as qualified below. Such signs shall not be enlarged, extended or structurally reconstructed or altered in any manner, except a sign face may be changed so long as the new face is equal to or reduced in height and/or sign area. The burden of establishing nonconforming status of signs and of the physical characteristics/location of such signs shall be that of the owner of the property. Upon notice from the zoning administrator, a property owner shall submit verification that sign(s) were lawfully existing at time of erection. Failure to provide such verification shall be cause for order to remove sign(s) or bring sign(s) into conformance with current ordinance.
- c. Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign; provided, however, that no nonconforming sign which has been declared by the zoning administrator to be unsafe because of its physical condition, as provided for in this chapter, shall be repaired, rebuilt or restored unless such repair or restoration will result in a sign which conforms to all applicable regulations.
- d. No nonconforming sign shall be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform to the provisions of this article.
- e. If a nonconforming sign is removed, the subsequent erection of a sign shall be in accordance with the provisions of this article.
- f. A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty (50) percent of its replacement value may be restored within two (2) years after such destruction or damage but shall not be enlarged in any manner. If such sign is so destroyed or damaged to an extent exceeding fifty (50) percent, it shall not be reconstructed except for a sign which would be in accordance with the provisions of this article.
- g. A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty (50) percent of its appraised value may be restored within two (2) years after such destruction or damage but shall not be enlarged in any manner. If such sign is so destroyed or damaged to an extent exceeding fifty (50) percent, it shall not be reconstructed except for a sign which would be in accordance with the provisions of this article.
- h. A nonconforming sign which is changed to or replaced by a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be in accordance with the provisions of this article.
- i. A nonconforming sign shall be subject to the removal provisions of section 10-47. In addition, a nonconforming sign shall be removed if the structure to which it is accessory is demolished or destroyed to an extent exceeding fifty (50) percent of its appraised value.
- j. The ownership of the sign or the property on which the sign is located shall not, in and of itself, affect the status of a nonconforming sign.

- (7) **Setback.** Minimum setback from public right-of-way for all signs shall be ten (10) feet. Signs are not permitted in required side yards.
 - (8) **Maximum height.** Signs shall not be greater in height than the building upon which it is mounted. If freestanding and at existing grade, then signs shall not be greater than twelve (12) feet in height. Signs not at existing grade shall not exceed twelve (12) feet in height if ground mounted nor fifteen (15) feet if pole mounted, inclusive of berm, above edge of pavement adjacent to such sign. In cases where normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the premises, whichever is lower. If the land is uneven, an average elevation will be used at the base of the sign. Signs on penthouses, cooling towers or other rooftop appendages are prohibited.
 - (9) **Lighting.** All lighting for signs shall not cause a glare onto adjacent properties or oncoming traffic.
 - (10) **Monument signs.** The base of a monument sign is the structure or apparent structure in direct contact with the ground that supports or appears to support the message portion of a monument sign. All monument signs shall have a minimum base height of eighteen (18) inches and a maximum of four (4) feet. The width of the base shall not exceed twice the height of the total structure and shall not extend more than one (1) foot beyond either outside edge of the message portion of the sign. The minimum width of the base shall be one-half the width of the message portion of the sign.
 - (11) **LED/Changeable Message.** For signs with changeable message panels or zip tracks, the changeable message area of the sign shall meet the following requirements:
 - a. The message shall not change more frequently than once every five (5) seconds, entry and exit modes shall be consistent for all frames, with the exception of signs that indicate the temperature or time by digital displays.
 - b. The message shall have no image(s) and/or message(s) which continually, intermittently or regularly change, flash, blink, flicker, or flutter.
 - c. The changeable message area of the sign shall not exceed 25 percent of the total sign area, except for gasoline price signs which shall not exceed 75 percent of the total sign area.
- (b) **Permitted signs by use and district.**
- (1) **Number of signs, aggregate sign area.** Except for business and general advertising signs or unless otherwise provided, these regulations shall be interpreted to permit one (1) sign for each permitted use on the lot or premises. For business and general advertising signs, these regulations shall be interpreted as the maximum aggregate area of such signs permitted on the lot or premises subject to the following requirements:
 - a. No more than one (1) freestanding sign shall be erected on any one (1) lot or premises with the exception of shopping centers, mixed-use developments, business parks.
 - b. Where two (2) or more individual businesses share a common lot or premises it is the responsibility of the property owner to allocate sign sizes in conformance with

the maximum aggregate area requirements listed within the sign matrix at subsection (b)(2), following herein.

- (2) *Sign matrix.* The following sign matrix indicates the type and maximum aggregate sign area (in square feet) of signs permitted in each zoning district. With the exception of special districts, if the sign matrix gives no numerical value, then the indicated type of sign is not permitted in the indicated zoning district:

Sign	Zoning District										
	C-1	A-1	R-R	R-1, R-2	R-3	RM-1	CB, GB	M-1, M-L	PIN, PMR, RSE and All PUD**	TND-I	TND PUD
Business		20	20				50*	50		<u>40</u>	<u>40</u>
Church	50	50	50	50			50			<u>40</u>	<u>40</u>
Identification	6	6	6	6	6	6	6	6	6	<u>6</u>	<u>6</u>
Home occupation	4	4	4	4	4				4	<u>4</u>	<u>4</u>
General advertising							100*	300			
Location/direction	4	4				<u>10</u>	10	10		<u>4</u>	<u>4</u>
<u>Directory</u>						<u>24</u>	<u>24</u>	<u>24</u>		<u>24</u>	<u>24</u>
Farm identification	25	25	25								
Residential project***		24	24	24	24	24				<u>24</u>	<u>24</u>
Temporary	6	6	6	6	6	6	32	32	6		
Portable							32	32			

TABLE INSET:

*If there are no general advertising signs on the premises, then the maximum aggregate area of all business signs permitted is increased to one hundred fifty (150) square feet.

**Size and type of signs will be as for most similar base district or variations as determined by the board of supervisors at time of rezoning and incorporated in approved development plans.

***Residential project to include subdivision, multifamily housing and planned mobile home park signs.

(3) *Supplementary sign regulations.*

- a. *Shopping centers:* In addition to all other permitted signs, shopping centers with more than one hundred thousand (100,000) square feet of retail space under one (1)

~~roof~~ may have wall signs to identify tenants ~~occupying at least twenty-five thousand (25,000) square feet of floor space~~ subject to the following:

1. Permitted wall signage size shall not include permitted business locations signs of ten (10) square feet or less;
 2. For walls up to one thousand (1,000) square feet, one wall sign per tenant shall be permitted provided the maximum size of the permitted wall signs shall not exceed twenty (20) square feet.
 - ~~2.3.~~ For walls greater than one thousand (1,000) square feet and up to six thousand (6,000) square feet, the maximum size of the permitted wall signs shall be the cumulative of either five (5) percent of the area of the wall or two hundred (200) square feet, whichever is smaller; or
 - ~~3.4.~~ For walls over six thousand (6,000) square feet ~~in size~~, the maximum size of the permitted wall signs shall be the cumulative of either two hundred (200) square feet plus two (2) percent of the area of the wall over six thousand (6,000) square feet or three hundred (300) square feet, whichever is smaller;
 - ~~4.5.~~ No more than one (1) freestanding sign shall be erected for each abutting public street frontage in a shopping center;
- b. *Medical facilities:* In addition to other permitted signs, medical facilities approved with a special use permit may be permitted a business sign with aggregate area of one hundred (100) square feet and both identification and location/directions signs with sign areas of twenty-four (24) square feet each.
- c. *Subdivision, multifamily housing, planned mobile home park:* One (1) sign per principal street entrance to a development (not to exceed two (2) signs per development) shall be permitted with a aggregate sign area not to exceed twenty-four (24) square feet and a maximum height not to exceed eight (8) feet.
- d. ~~{CB or GB district sign area bonus:}~~ A twenty (20) percent sign area bonus may be permitted in CB or GB districts in specific instances where two (2) or more businesses on separate lots existing at time of adoption of this chapter: (1) decrease the number of signs otherwise allowed through sharing, and (2) assure that a decrease occurs in the number of entrances to the primary highway already existing or permitted.
- e. Mixed-use developments & business parks: Properties or establishments located within mixed use development or business park shall be permitted the following:
1. One (1) monument sign per each principal entrance identifying the occupants in addition to an allowed freestanding sign. Each sign shall have a minimum base height of eighteen (18) inches and a maximum of four (4) feet. The width of the base shall not exceed twice the height of the total structure and shall not extend more than one (1) foot beyond either outside edge of the message portion of the sign. The minimum width of the base shall be one-half the width of the message portion of the sign.
 2. Developments located on a single parcel with three (3) or more separate occupants shall be permitted a twenty (20) percent sign area bonus to be allocated toward wall or monument signs.

f. Signs for semipublic use, community signs, subdivision signs, and signs for church, chapel, synagogue, temple or other place of worship. One (1) off-premise sign is permitted per subdivision, community, or use subject to the following requirements:

1. The sign shall not exceed 24 square feet in area.

2. A perpetual easement shall be recorded and a copy submitted to the zoning administrator prior to the issuance of a sign permit. The easement shall identify the entity responsible for maintaining the sign per subsection (d).

(c) *Administration.*

a1. Permit requirements: Except as otherwise provided herein, no sign shall be erected, altered, refaced or relocated unless a sign permit has been approved by the zoning administrator.

b2. Application: The application for a sign permit shall be filed with the zoning administrator on forms furnished by the county. The application shall contain the identification and address of the property on which the sign is to be erected; the name and address of the sign owner and of the sign erector; drawings showing the design, dimensions and location on the building/site of the sign; and such other pertinent information as the zoning administrator may require to ensure compliance with the provisions of this chapter and other applicable ordinances of the county.

c3. Permit expiration: A sign permit shall expire and become null and void if the sign is not erected within a period of twelve (12) months from the date of the permit. In the event the sign is not erected within the twelve-month period, an application for extension of an additional six-month period may be made to the zoning administrator. Such an extension may be granted if the proposed sign is in accordance with current applicable regulations. If the proposed sign is not in accordance, the application for an extension shall be denied.

d4. Issuance: Sign permits shall be issued by the zoning administrator.

e-5. Fee: A fee, as established according to section 10-52 shall be paid prior to the issuance of a sign permit. Under no circumstances are permit fees refundable.

f-6. Permit number: Any sign erected under permit shall indicate in the lower right hand corner of the sign the number of the permit. The permit number shall be so affixed that it is legible from the ground.

g7. Special use permits:

1a. The BZA may grant a special use permit to allow an increase in the height of a sign where, in its opinion, the provisions of this article would cause a hardship by virtue of topography. The purpose of such a permit shall be to allow as much, but not more, visibility as the sign would have if located on level ground.

b. The BZA may grant a special use permit to allow an increase in sign area where, in its opinion, the provisions of this article would cause a hardship by virtue of the size of the development, topography of the parcel, or other physical limitations that would restrict the visibility of the sign.

2c. The BZA or the board of supervisors, as part of an approving action for a special use permit, may impose stricter sign requirements as condition of approval.

(2d) *Maintenance and removal.*

- a.(1) All signs shall be constructed in compliance with the Virginia Uniform Statewide Building Code.
- b.(2) All signs and components thereof shall be maintained in good repair and in a safe, neat and clean condition.
- e.(3) The building official may cause to have removed or repaired immediately without written notice any sign which, in the building official's opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be at the expense of the owner or lessee thereof.
- d.(4) Any sign which is obsolete, because of discontinuance of the subject's activity or any other reason which would cause the sign to be obsolete, shall be removed within thirty (30) days.
- e.(5) Any sign located on property which becomes vacant and is unoccupied for a period of two (2) years or more shall be deemed abandoned. An abandoned sign shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the sign, the zoning administrator shall give the owner fifteen (15) days' written notice to remove it. Upon failure to comply with this notice, the zoning administrator may initiate such action as may be necessary to gain compliance with this provision.

ORD-FY-12-05

**AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING, SECTION 10-52
(3) (b) BY REQUIRING COUNTY STAFF AND NOT THE APPLICANT APPLYING
FOR LAND USE APPROVAL TO POST A PLACARD NOTICE ON
THE PROPERTY NOTIFYING THE PUBLIC OF THE PLACE AND
TIME OF AN UPCOMING PUBLIC HEARING**

On a motion by Gary D. Creed, seconded by Mary W. Biggs and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, of the Code of the County of Montgomery, Virginia shall be amended and reordained by amending Section 10-52 as follows.

Sec. 10-52. Administration, enforcement and public hearings.

- (1) *Administration.*
 - (a) *Zoning administrator.* It shall be the responsibility of the zoning administrator to administer, interpret and enforce the provisions of this chapter. The zoning administrator shall be guided in all of his actions pursuant to this chapter by the terms, purposes, intent and spirit of this chapter. The zoning administrator may be assisted in the enforcement of this chapter by the health officer, sheriff and all other officials of Montgomery County, Virginia, pursuant to their respective fields. Specifically, the duties and powers shall include:

- 1. To receive and/or review:

- a. Applications for variances.
 - b. Notices of appeal to the BZA.
 - c. Applications for certificates of occupancy.
 - d. Applications for zoning permits.
 - e. Applications for commission permits.
 - f. All other applications, certifications, or materials required by this chapter to be submitted to the zoning administrator.
2. To issue zoning permits where the requirements of this chapter have been met.
3. To issue interpretations of this chapter upon proper application. Such interpretations shall be binding as to the applicant and as to the specific facts presented in the application for interpretation after the completion of the thirty-day appeal period. In administering this chapter and rendering determinations as to the uses permitted or allowed by special use permit in the various zoning districts, the zoning administrator shall have the power and authority to render decisions as to whether a specific proposed use, although not listed as permitted or allowed by special use permit, is so substantially similar in substance and effect to a permitted use or a use allowed by special use permit, that it should be allowed as if expressly permitted or allowed by special use permit. Such interpretations shall include notification of appeal procedures and timelines.
4. To conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this chapter.
5. To maintain accurate records of proffered conditions as required by section 10-54(1)(i) of this chapter.
6. To enforce the provisions of this chapter, the decisions of the BZA and conditions and proffers subject to which approvals of the BZA, planning commission and board of supervisors were made.
7. To perform such other duties and functions as may be required by this chapter and the board of supervisors.
8. To maintain and make available for public inspection and copying the official zoning map, the zoning ordinance, and the minimum submission requirements adopted by board of supervisors resolution.
9. To maintain a compilation of the interpretations and opinions of the zoning administrator for public review.
- (b) Fees. The county administrator shall recommend and the board of supervisors shall adopt a schedule of fees to be paid upon the filing of each application specified in this chapter. Application fees are hereby waived for the following:
 1. Applications for requested amendment from any district to a C-1 district.
 2. Applications for amendment, special use permit, or commission permit sought by the following governmental agencies:
 - a. Montgomery County School Board.
 - b. Public Service Authority (PSA).
 - c. Fire and rescue companies serving Montgomery County.
 - d. Any agency, board or division acting in the name of the Board of Supervisors of Montgomery County.
- (c) Submission requirements. The board of supervisors shall adopt by resolution regulations enumerating those materials required to be included with each application provided for in this chapter, which materials shall constitute the

minimum submission requirements for such application and be consistent with the requirements of this chapter. Such submission requirements shall include a letter signed by the applicant and by the owner of the property granting the right of entry upon the property to the zoning administrator, law enforcement agents, and county inspectors for the purpose of inspecting, and bringing law enforcement to the property, during the term of any permit which may be issued. In addition to the materials requested by the board of supervisors by resolution the submission requirements shall include in the case of any application for a zoning map amendment, zoning concept development plan amendment, special use permit or site plan, a traffic impact statement when the proposed zoning map amendment, zoning concept development plan amendment, special use permit or site plan substantially affects transportation on State controlled highways as defined by the Virginia Department of Transportation Traffic Impact Analysis Regulations Chapter 155, 24 VAC 30-155, et seq. The data and analysis contained in the traffic impact statement shall be acceptable to VDOT and comply with VDOT Traffic Impact Analysis Regulations 24 VAC 30-155-60 and this Ordinance. The applicant shall submit three (3) copies of the traffic impact statement. The zoning administrator shall forward the traffic impact statement to VDOT within ten (10) business days of receipt of a complete application. Such submission requirements shall also include, in the case of any application for a zoning map amendment, zoning ordinance modification, zoning concept development plan amendment, special use permit, variance, site plan or zoning permit, the provision of satisfactory evidence from the treasurer's office that any real estate taxes due and owed to the county which have been properly assessed against the property have been paid and that the property shall be in compliance with all county ordinances upon submission of such application. Revisions to the list of those materials required necessitated by an amendment to this chapter shall be attached to such amendment for concurrent consideration and adoption by resolution of the board of supervisors. If the application is a reclassification to a non-planned unit development district, a rezoning plat shall be required.

- (d) Inactive applications. Any zoning map amendment application, zoning modification application, or concept development plan amendment application officially accepted by the county for processing but which has had processing suspended either by request of the applicant or by having no contact or activity occur in regards to the application by the applicant for a period of twelve (12) months or any special use permit application officially accepted by the county for processing but which has had such processing suspended either by request of the applicant or by having no contact or activity occur in regards to the application by the applicant for a period of six (6) months shall be deemed inactive. An application may remain inactive for up to three (3) years at the end of which period it will be processed to a final decision. If an applicant wishes to reactivate their application prior to the end of this three-year period, the applicant must notify the county in writing of intent to proceed with the application, grant the county an appropriate timeline extension and pay a reactivation fee as established by the board of supervisors.

(2) *Enforcement and penalties.*

- (a) *Zoning administrator.* The zoning administrator shall have the authority and the duty to ensure that all buildings and structures and the use of all land complies with the provisions of this chapter.

(b) *General provisions.*

1. Any building or structure erected contrary to any of the provisions of this chapter and any use of any building or land which is conducted, operated or maintained contrary to any of the provisions of this chapter or the provisions of any approval granted by the county under this chapter shall be a violation of this chapter and the same is hereby declared to be unlawful.
2. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this chapter, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or structure or uses any building, structure or land in violation of the provisions of this chapter or the provisions of any approval granted by the county under this chapter shall be subject to the enforcement provisions of this section.
3. In addition to the remedies provided in this section, the zoning administrator may initiate injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove any unlawful building, structure or use.
4. Upon becoming aware of any violation, the zoning administrator shall serve notice of such violation on the person committing or permitting the same, and the land owner. The administrator shall, in the notice of violation, state the nature of the violation, the date that it was observed, and the remedy or remedies necessary to correct the violation. The administrator may establish a reasonable time period for the correction of the violation, however in no case shall such time period exceed thirty (30) days from the date of written notification, except that the administrator may allow a longer time period to correct the violation if the correction would require the structural alteration of a building or structure. If the violation is not corrected within the time period specified in the first notification, a second written notice shall be sent. The second notification shall request compliance with these provisions within a period not to exceed seven (7) days. If such violation has not ceased within such reasonable time as the zoning administrator has specified in such notice the zoning administrator shall institute such action as may be necessary to terminate the violation.
5. If the person responsible for the alleged violation denies that a violation person may appeal the decision of the zoning administrator pursuant to the provisions of section 10-55 of this article.
6. Whenever a violation occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the cause and basis thereof shall be filed with the zoning administrator. The zoning administrator shall record such complaint, investigate, and take action thereon as provided by this chapter.

(c) *Criminal violations.*

1. Any violation of the provisions of this chapter shall be deemed a Class 2 criminal misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00) for each separate offense. If the violation is uncorrected at the time of the conviction, the court shall order the violator

to abate or remedy the violation in compliance with this ordinance, within a time period established by the court. Failure to remove or abate the zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars (\$10.00) or more than one thousand dollars (\$1,000.00) and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00). Nothing herein contained shall prevent the county from taking such other lawful action as is necessary to prevent or remedy any violation, including without limitation, pursuing injunctive relief. Each day during which the violation is found to have existed shall constitute a separate offense.

2. The designation of a particular violation of this chapter as a civil violation shall preclude criminal prosecution of sanctions, except when such violation results in injury to any person.

(d) Civil violations.

1. Any violation of the provisions shall be deemed a civil violation and, upon an admission of liability, shall be punishable by a fine of one hundred dollars (\$100.00) for each individual charge. The civil penalties set forth herein shall be in lieu of criminal penalties. Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall specified violations arising from the same operative set of facts be charged more frequently than once in any ten-day period, and in no event shall a series of specified civil violations rising from the same operative set of facts result in civil penalties which exceed a total of three thousand dollars (\$3,000.00). Nothing in this subsection shall be construed as to prohibit the zoning administrator from initiating civil injunction procedures in cases of repeat offenses.
2. After having served a notice of violation on any person committing or permitting a violation of the zoning ordinance provisions and if such violation has not ceased within such reasonable time as is specified in such notice, the zoning administrator shall cause two (2) copies of a summons to be personally served upon such person. If a person complies in writing to a notice of violation, and agrees to cease said violation, no further fines shall be levied after the date of such agreement, provided such agreement is complied with.
3. The summons shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the county treasurer's office at least seventy-two (72) hours prior to the time and date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court, however, an admission shall not be deemed a criminal conviction for any purpose.
4. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law.

A finding of liability shall not be deemed a criminal conviction for any purpose.

5. Reserved.

- (3) *Public hearings, notice required.* Each public hearing involving planning and zoning matters before the planning commission, the board of supervisors and the board of zoning appeals, requires notice as set forth in section 15.2-2204 of the Virginia Code and below.

(a) *Written notice.*

1. *Contents.* All required written notices shall contain:
 - a. The time, date and place of hearing.
 - b. A brief description of the matter being heard.
 - c. Identification of the land subject of the application including the tax map number of the property and complete street address of the property.
2. *Second notice remailed if hearing continued.* If a public hearing is continued, or if a planning and zoning matter is deferred or tabled by the board of supervisors for a period more than ninety (90) days after the board's public hearing, then the second notice required in such case shall be remailed.
3. *Notice by county.* Notwithstanding any other provision of this section, whenever the notices required under this section are sent on behalf of an agency, department or division of the county, such notice shall be sent by the zoning administrator and may be sent by first class mail; however, the zoning administrator shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.
4. *Certification.* At least five (5) calendar days prior to the hearing, an affidavit, prepared by the person or persons, or their representative providing notice, shall be filed with the director of planning certifying that first and second notices have been sent and such affidavit shall include a list of names of those to whom notice was sent. A counterpart of such affidavit shall be presented at the beginning of the public hearing on the application.
5. *Failure to receive notice.* Failure to receive any notice of a hearing required by this section, in and of itself, shall not invalidate any action taken at or subsequent to the hearing.
6. *Condominium ownership.* In the case of a condominium, written notice may be sent to the unit owner's association instead of to each individual unit owner.

(b) *Placard notice.* Each application shall be posted by ~~the applicant~~ county staff, using a form of placard provided by the zoning administrator, ~~at least fourteen (14) and no more than thirty (30) calendar days prior to each~~ no less than five (5) days prior to the first public hearing. County staff shall document initial installation of the placard with a digital photograph. No further observation of the placard will be conducted until removal of the placard by staff no later than 15 calendar days following a decision regarding the application. Placard shall be reinstalled by County staff if notified of a damaged or missing placard. County-initiated amendments involving more than ten (10) parcels shall be exempt from placard requirements.

1. *Location of placards.* Placards shall be affixed to a pole, post, fence or other structure to be clearly visible from each public road abutting the property. If no public roads abut the property, then the placard shall be posted so as to be clearly visible from at least two (2) abutting properties and at the access points to said property.
2. *Maintenance and removal of placards.* County staff shall attempt to reinstall placards if notified of a damaged or missing placard ~~The applicant shall maintain all placards up to the time of the hearing~~ and shall remove all posted placards no later than fifteen (15) calendar days ~~after the public hearing has been closed~~ following a decision regarding the application. Public hearing(s) may proceed even if placards are missing, damaged or vandalized.
3. *Penalties.* It shall be unlawful for any person to destroy, deface or remove such placard notice. Any person taking such action shall be subject to the penalties set forth in subsection (2)(c) of this section.

(c) *Newspaper notice.* The county shall give newspaper notice prior to each public hearing in accord with section 15.2-2204A of the Virginia Code.

1. *Contents of newspaper notice.* The notice shall contain:

- a. The time, date and place of the hearing;
- b. A brief description of the matter being heard;
- c. If the matter is one for which an additional public hearing is necessary and has been scheduled before the BZA or board of supervisors, the time, date and place of the scheduled BZA or board of supervisors hearing; and
- d. Identification of the land that is the subject of the application including the tax map number and complete address of the property.
- e. In the case of a zoning map amendment, including an amendment to an approved concept development plan, or a modification of ordinance regulations, the general usage and density range of the proposed zoning amendment, and the general usage and density range, if any, set forth in the comprehensive plan shall be included within the notice.

(d) *Notice requirements for particular hearings.* The following particular hearings require the following form of notice:

1. *Appeals to board of supervisors.* Public hearings on appeals to the board of supervisors require that the county provide newspaper notice of the hearing.
2. *Appeals to board of zoning appeals.* Public hearings on appeals to the BZA require that the county provide newspaper notice of the hearing.

(e) *Additional notice required.*

1. *Deferral.* If an item is not heard at the time for which it was noticed but is deferred at that time to another date, all notice required by this section shall be given of the deferred public hearing.
2. *Recessed public hearings.* If a public hearing is begun but the agenda not completed, thereby requiring the meeting to be recessed, no additional notice

is required as long as the dates for completion of the public hearing agenda is announced at the hearing which has been recessed.

- (f) *Speakers at public hearings.* All witnesses and speakers presenting facts and evidence at any public hearing shall provide their name, address and affiliation, if any, for the record. At the discretion of the person presiding over the hearing, witnesses or speakers may be required to give oath or affirmation regarding the truth of their statements.

RECESS

The Board of Supervisors took a 10 minute recess at 8:30 p.m. and reconvened at 8:40 p.m.

NEW BUSINESS

Bond Referendum

Supervisor Marrs made a motion, seconded by Gary D. Creed for the Board of Supervisors to allow the citizens of Montgomery County to vote on a bond referendum on bond issuances for the school capital projects AHS, AMS, BHS.

The vote on the foregoing motion was as follows:

AYE

Gary D. Creed
Doug Marrs

NAY

Annette S. Perkins
William H. Brown
Mary W. Biggs
John A. Muffo
James D. Politis

The motion was defeated.

The County Attorney explained that the following resolution authorizes the Montgomery County School Board to enter into an agreement under PPEA. This resolution is not a resolution to fund the school projects. The School Board has been in negotiations with Branch & Associates and they are now ready to enter into an agreement. The Board of Supervisors is not a party of the agreement and this resolution shows the Board's willingness to move forward.

R-FY-12-06

A RESOLUTION AUTHORIZING THE MONTGOMERY COUNTY SCHOOL BOARD TO ENTER INTO A COMPREHENSIVE AGREEMENT UNDER PPEA FOR THE BLACKSBURG HIGH SCHOOL, AUBURN HIGH SCHOOL AND AUBURN MIDDLE SCHOOL PROJECTS

On a motion by Mary W. Biggs, seconded by Annette S. Perkins and carried,

WHEREAS, The Montgomery County School Board ("the School Board") desires to design and construct a new Blacksburg High School and a new Auburn High School, and renovate the Auburn Middle School ("School Projects"); and

WHEREAS, The School Board adopted Guidelines for Implementation of the Public-Private Education Facilities and Infrastructure Act of 2002; and

WHEREAS, Pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 (“the PPEA”), the School Board received an unsolicited proposal to develop the School Projects; and

WHEREAS, The School Board accepted the unsolicited proposal for consideration and advertised for competing proposals, receiving three additional proposals for consideration; and

WHEREAS, The School Board has determined that proceeding under the procurement procedures pursuant to the PPEA is advantageous to both the School Board and the public; and

WHEREAS, Following a review of all proposals, the School Board has selected the Branch Group, Inc. as the private entity the School Board desires to enter into a Comprehensive Agreement with for the development of the School Projects; and

WHEREAS, The School Board has briefed the Montgomery County Board of Supervisors on the proposal submitted by Branch & Associates, Inc., and on the School Board’s intent to enter into a Comprehensive Agreement with Branch & Associates, Inc. to develop the School Projects; and

WHEREAS, Section 56-575.16 of the PPEA requires the local governing body to authorize the School Board to enter into a comprehensive agreement under the PPEA.

NOW THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby authorizes the School Board to enter into a Comprehensive Agreement under the provisions of the PPEA with Branch & Associates, Inc., for the development of the School Projects.

The vote on the foregoing resolution was as follows:

AYE

William H. Brown
Annette S. Perkins
Mary W. Biggs
John A. Muffo
James D. Politis

NAY

Doug Marrs
Gary D. Creed

R-FY-12-07
RESOLUTION OF SUPPORT
VIRGINIA DEPARTMENT OF TRANSPORTATION'S
PROJECT ON NORTH FORK ROAD (SR 603)

On a motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Virginia Department of Transportation held a public hearing on May 29, 2011 for the purpose of discussing the proposed improvements to North Fork Road (SR 603) located in Montgomery County, VA.; and

WHEREAS, The purpose of the proposed Ironto/Elliston connector project is to reconstruct North Fork Road (SR 603) in Montgomery County to current standards to improve safety and capacity; and

WHEREAS, This project will provide a better connection between Route 11/460 and Interstate 81 at exit 128; and

WHEREAS, The Board of Supervisors does hereby support the proposed improvements to North Fork Road (SR 603).

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby supports the proposed improvements to North Fork Road (SR 603).

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the Virginia Department of Transportation Salem Residency Office.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Annette S. Perkins	None
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
William H. Brown	
Gary D. Creed	
James D. Politis	

Supervisor Creed explained that the North Fork Road Project has nothing do to with the Norfolk Southern Intermodal project.

R-FY-12-08
STATE BUDGET CUTS METHOD
OF REIMBURSEMENT FOR FY 2012

On a motion by Annette S. Perkins, seconded by William H. Brown and carried unanimously,

WHEREAS, The 2012 Appropriations Act requires the reduction in state aid to local governments in FY 2012; and

WHEREAS, The Act also provides three methods from which a locality can choose to carry out the required reduction which include:

1. Take the reduction from one or more programs on a list provided by the Department of Planning and Budget,
2. Make a reimbursement payment directly to the state for the total locality reduction,
3. Elect a combination of reductions and reimbursement payments,

WHEREAS, The Department of Planning and Budget identified Montgomery County's reduction for FY 2012 totaling \$408,350.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that Montgomery County elects to take the reduction from one or more programs on a list provided by the Department of Planning and Budget, as the method to address the required state mandated funding reduction.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Doug Marrs	
John A. Muffo	
Gary D. Creed	
William H. Brown	
Annette S. Perkins	
James D. Politis	

R-FY-12-09
RESOLUTION OF APPRECIATION
MONTGOMERY-FLOYD REGIONAL
LIBRARY BOARD-MICHAEL HEMPHILL

On a motion by Gary D. Creed, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, *Michael Hemphill* has faithfully served as a member of the Montgomery-Floyd Regional Library Board from July 2003 through June 2011; and

WHEREAS, *Michael Hemphill* served as Vice Chair of the Montgomery-Floyd Regional Library Board in 2005, 2007 and 2009; and served as Chair in 2010 and 2011; and

WHEREAS, The County recognizes the dedicated service that **Michael Hemphill** has rendered the citizens of Montgomery County.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia, on behalf of the entire citizenship, extends a unanimous vote of appreciation and gratitude to **Michael Hemphill**.

BE IT FURTHER RESOLVED, That the original of this resolution be presented to **Michael Hemphill** and that a copy be made a part of the official Minutes of Montgomery County.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
John A. Muffo	
Gary D. Creed	
Annette S. Perkins	
William H. Brown	
Mary W. Biggs	
James D. Politis	

COUNTY ADMINISTRATORS REPORT

Tax Exempt Request - Friends of the Rivers of Virginia

The Friends of the Rivers of Virginia (FORVA), a statewide river coalition dedicated to the conservation of Virginia's river resources, requests an exemption from real estate tax for 45 acres of property they own adjoining Stroubles Creek in the Prices Fork area of the County. This property was conveyed to the FORVA in a Deed of Gift from Ann Hayden Yates in December 2010, following the County's decline of the property donation.

The application appears to be complete and the organization is eligible for tax-exempt status. They have no paid members and operate solely on donations. The purpose of this organization is to conserve and protect rivers and other water resources in Virginia.

The 2010 value of the property totals \$155,000. At the current tax rate of 75¢, taxes would generate \$1,163 annually for the County.

The County Administrator suggested the Board to either schedule a public hearing in order to hear public comment on whether to grant the exemption, or deny the request.

BOARD OF SUPERVISORS' REPORTS

Supervisor Brown announced the Long Shop/McCoy Fire & Rescue celebrated their 50th Anniversary on July 9, 2011. He also announced that the grand opening for the Riner Rescue Squad is Saturday, July 16, 2011.

Supervisor Politis commented that although he may agree that voters should have the choice to vote on a bond referendum, he voted against the motion tonight because it would delay the school capital projects for construction of a new Blacksburg High School, new Auburn High School, and a renovated Auburn High School for an Auburn Middle School. Supervisor Politis stated that if Board members were interested in future bond referendums, he suggested that they hold a worksession on this issue.

ADJOURNMENT

The Chair declared the meeting adjourned at 10:15 p.m. The Board adjourned to Monday, July 25, 2011 at 6:00 p.m.

APPROVED: _____
James D. Politis
Chair

ATTEST: _____
F. Craig Meadows
County Administrator